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THE EVOLUTION OF ADMINISTRATIVE TRIBUNALS: A COMPARATIVE STUDY OF THE UK, USA, AND INDIA

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ABSTRACT

This research provides a comparative examination of how administrative tribunals have developed in the United Kingdom, the United States, and India. Administrative tribunals act as specialized quasi-judicial entities that enable the efficient resolution of disputes related to administrative law and governmental actions. The study investigates the historical evolution, legal frameworks, and functional roles of these tribunals in each jurisdiction. By looking at their origins, procedural frameworks, and effects on administrative justice, the research reveals both shared trends and unique characteristics shaped by the political, legal, and social contexts of each nation. The analysis emphasizes the importance of administrative tribunals in fostering transparency, accountability, and prompt justice, while also pinpointing challenges such as jurisdictional overlaps and procedural complexities. This comparative viewpoint offers valuable insights for legal reforms aimed at improving the effectiveness of administrative adjudication worldwide.

INTRODUCTION:

The executive carries out various functions that are both quasi-legal and quasi-judicial. According to traditional legal theory, the resolution of disputes is solely the responsibility of the courts; however, in practice, executives carry out actions such as imposing fines, levies, and penalties. In the present day, we do not adhere strictly to the principles of "laissez-faire" or "police state"; instead, we embrace a welfare state. This means that the state undertakes not only sovereign responsibilities but also functions characteristic of a progressive democratic state. Consequently, it becomes more challenging for ordinary courtrooms to address all these socio-economic issues. Neither the courts can have excessive limitations, nor can administrative authorities make arbitrary decisions. As a result, administrative tribunals have been created to manage quasi-judicial responsibilities.

DEFINITION

According to dictionaries,[771] "tribunal" is defined as "a seat or bench where a judge or judges preside over a court" or "a court of justice." However, this definition is quite broad, encompassing even ordinary courts; in the context of administrative law, the term specifically refers to adjudicating authorities that are not ordinary courts.

In the matter of ***Durga Shankar Mehta versus Raghuraj Singh***, the Supreme Court clarified that the term "Tribunal" as mentioned in ***Article 136*** should not be interpreted the same way as "Court," but includes all adjudicating bodies constituted by the State

[771] Webster 's New world Dictionary (1972)

with judicial rather than administrative or executive roles[772]

REASONS FOR THE GROWTH OF ADMINISTRATIVE TRIBUNALS

In Dicey's perspective on the rule of law, the standard laws within a country ought to be upheld by traditional judicial courts. He opposed the establishment of administrative tribunals. In line with classical theory and the doctrine of separation of powers, the resolution of disputes between parties was meant to fall within the purview of standard courts of law. However, as discussed earlier, the expansion of government functions has increased, and ordinary courts are unable to address the complex problems arising from evolving socio-economic conditions effectively. Administrative tribunals have been created for the following purposes:

1. The escalation of governmental functions and activities has overwhelmed courts with cases, preventing them from managing their caseloads effectively. The creation of administrative tribunals has had a beneficial effect on upholding the integrity of the standard judicial system.
2. The conventional judicial system has shown itself to be insufficient for resolving all disputes that need addressing. It tends to be slow, expensive, lacking in expertise, complicated, formal, already overwhelmed, and even urgent matters, such as conflicts between employers and employees, lockouts, strikes, etc., cannot be expected to be resolved quickly. These pressing issues cannot be addressed solely through a literal interpretation of statutory provisions; they require a consideration of numerous other factors that the courts are unable to tackle. Consequently, Industrial Tribunals and labour courts were created, equipped with the necessary techniques and knowledge to deal with these intricate challenges.
3. Legal courts manage cases brought before them by applying established legal principles and using objective standards. However, in today's society, intricate issues arise that cannot simply be resolved through straightforward legal principles. These challenges must take into account policy matters and public interest, which administrative tribunals can effectively address.
4. While traditional courts are staffed by individuals with legal expertise, modern governance often presents issues that call for specialization and in-depth understanding in specific areas Consequently, in addition to legal knowledge, proficiency in specific areas is crucial. Instead of relying on a "one-man court," a "broad-based membership" or a "mixed panel" within administrative tribunals may provide better solutions to these problems.
5. Administrative bodies have the ability to bypass technicalities and offer a functional rather than a strictly theoretical and legalistic response. The traditional judiciary tends to be conservative, rigid, and technical, making it impossible for courts to handle cases without adhering to formalities and legal complexities. In contrast, administrative tribunals are not constrained by evidential and procedural rules, allowing them to adopt a practical approach to resolving complicated issues.
6. Administrative bodies can implement preventive measures such as licensing and rate-fixing without the need to wait for disputes to be brought to them, unlike standard courts. In many instances, these proactive steps may be more effective than imposing penalties after a legal breach has occurred.

[772] Ibid ,AIR 522

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7. Administrative authorities can take decisive action to enforce these preventive measures, such as suspending, revoking, or cancelling licenses, or destroying contaminated products—measures typically not accessible through conventional courts.
8. In traditional courts, decisions are made after hearing from all parties and based on the evidence presented. This method is often unsuitable for resolving matters handled by administrative authorities, where a broad discretion is given and decisions may rely on departmental policy and other pertinent factors.
9. Occasionally, the issues at hand are too technical for the traditional judiciary to comprehend and adjudicate properly. In contrast, administrative authorities are often comprised of experts capable of addressing and resolving such problems, such as those related to atomic energy, gas, or electricity.
10. Administrative tribunals operate more swiftly, at a lower cost, and with greater efficiency compared to regular courts. They possess enhanced technical knowledge and are less biased against the government, paying more attention to the social considerations involved and making decisions with a conscious effort to promote social policies set forth in the legislation.

HISTORICAL DEVELOPMENT:

The quick rise of administrative tribunals is undoubtedly a hallmark of the 20th century. However, tribunals existed even in earlier times. As noted by ***Wade***[773], Commissioners of Customs and Excise were granted judicial powers over three hundred years ago. A Tax Tribunal was formed in the 18th century. Following World Wars I and II, numerous tribunals were established under different welfare legislations, and today, administrative tribunals handle and resolve a broad spectrum of disputes between individuals and interactions between individuals and the government.

As previously mentioned, the establishment of administrative tribunals and the delegation of adjudicatory powers to them instead of traditional courts is a recent development resulting from the complexities introduced by the Industrial Revolution, along with the growing number of interactions between the State and individuals due to the State's expanded welfare responsibilities. Initially introduced as a limited exception to the Rule of Law, as described by ***Dicey***[774], the prevalence of administrative tribunals in the Anglo-American world has grown so significantly that individuals today are more influenced by administrative rulings than by court decisions[775].

ENGLAND

In England, numerous recent legislations have stipulated that questions arising from the implementation of an Act shall be resolved by the Local Government authorities responsible for its administration. This indicates that the administrative tribunal system undermines the principle of equality before the law in the Dicean context, which posits that all individuals should be subjected to the ordinary courts. An administrative tribunal is not required to adhere to the procedural norms of a court; it can adopt whatever procedures allow it to operate effectively. Therefore, without a statutory mandate, an administrative tribunal is not obliged to reveal to a party the official's report or to provide an opportunity for oral hearings; it operates without the constraints of evidence rules for gathering information, nor must it justify its preference for one option over another or explain the rationale for its decisions [776](these issues will be elaborated upon later).

[773] Wade and Forsyth, Administrative law (2009)771 .

[774] Dicey ,Law of the constitution ,9TH Ed ., pp. 202-03

[775] Jackson, the supreme court in the American system of government 1955),.p.51 .

[776] Parsons v .Lakenheath school Board ,(1889)58L.J.Q.B.371;R.v.Brighton Rent tribunal , (1950)1 All E.R. 946.

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Prior to 1958, there was no mechanism for the oversight of these administrative tribunals in England by any superior Administrative Tribunal, unlike in continental jurisdictions. Consequently, the Committee on Ministers' Powers, established in 1932, was tasked with determining whether England should adopt a comprehensive system of Administrative Courts following the French model. However, the Committee opposed this idea, citing its incompatibility with the flexibility inherent in the English Constitution and the customary judicial control over administrative activities. Instead, they recommended that these authorities retain their judicial powers while ensuring that

(i) The High Court maintains the ability to regulate them through prerogative writs such as mandamus, prohibition, and certiorari;
(ii) The tribunals should adhere to the principles of natural justice; and
(iii) There should be an option for appeal to the High Court on legal matters.

The Committee's Report on Ministers' Powers garnered public interest, leading to the establishment of the ***Franks Committee*** by the ***Lord Chancellor*** in 1955. This Committee was tasked with examining and making recommendations on two broadly framed issues: (a) the structure and functioning of tribunals, aside from ordinary courts, that are established under any Act of Parliament by a Minister of the Crown or related to the Minister's responsibilities, and (b) the procedures of administrative processes involving inquiries or hearings conducted by or for a Minister, particularly in cases of compulsory land acquisition. The Committee's findings were released in 1957. Of the numerous recommendations put forth by this Committee, the following should be highlighted:

i. When Parliament delegates the decision-making on specific issues to administrative tribunals instead of ordinary courts, these tribunals ought to serve as adjudicatory bodies rather than as part of the administrative framework, and consequently, their operations should embody 'openness, fairness, and impartiality.'
ii. There ought to be a provision for appeal from these tribunals to the courts solely on legal grounds, not factual ones.
iii. An Advisory Council should be created, appointed by the Lord Chancellor, to examine the functioning of the tribunals.

These three recommendations have been largely incorporated into the ***Tribunals and Inquiries Act of 1958,*** which has since been replaced by the ***1971 Act:***

- A Council on Tribunals, appointed by the ***Lord Chancellor,*** has been established to oversee the structure and functioning of the tribunals listed in the Act's Schedule and to report on other specified issues related to the Tribunals (s. 1).
- Appeals on legal points are permitted to be made to the High Court from certain ***Tribunals and Inquiries Act*** Tribunals, with the possibility of a further appeal to the Court of Appeal (s. 9).
- The High Court's authority to issue certiorari or mandamus cannot be nullified by legislation (s. 11).
- Ministers or other tribunal decisions must be accompanied by reasons upon request (s. 12).

Thus, England has established a framework for the oversight of administrative tribunals by the ordinary courts, preserving the traditional Rule of Law, without either eliminating administrative tribunals and their distinct procedures or instituting administrative courts based on droit administrative. Modern

theory holds that the Rule of Law can coexist with the existence of administrative tribunals provided they are effectively regulated by the ordinary courts, ensuring compliance with the principles of 'natural justice[777].'

U.S.A.

In the United States, the issue is referred to as 'administrative adjudication.' At first glance, it might appear that administrative adjudication lacks a foundation in the U.S.A. due to the dominant doctrine of Separation of Powers which influences the entire constitutional framework, and the explicit clause in ***Art. III,*** s. 1 stating, "The judicial power of the United States shall reside in one Supreme Court, and in such inferior courts as Congress may periodically ordain and establish."

U.S.A. The Constitution prohibits the allocation of judicial power to administrative entities that are not courts. Nevertheless, the practical needs of government have resulted in the establishment and justification of administrative tribunals through the application of the doctrine of 'quasi.' Essentially, this theory posits that the authority held or exercised by administrative tribunals is not 'judicial' in nature but 'quasi-judicial.' This deviation from the straightforward implications of the Separation of Powers doctrine has been facilitated by the perception that the key characteristic of judicial power is the 'finality' of decisions[778], free from any interference by the other two branches of government, the Executive and Legislative. What is delegated to an administrative agency or tribunal does not constitute 'judicial power' but rather 'judicial process,' and as long as an administrative tribunal does not possess this judicial finality and remains subject to judicial review, there is no violation of ***Art. III,*** s. 1. When it is noted that some administrative tribunals have a significant degree of finality and autonomy.

Any authority less than full judicial power can be delegated without violating the constitutional clause. Another criterion that differentiates the authority of an administrative tribunal from judicial power is that while a court can enforce its own rulings, an administrative tribunal lacks such authority. Additionally, only a court has the authority to impose jail time as a punishment, while administrative tribunals are able to levy fines. No matter what justification has led courts to accept these administrative tribunals, they have had to recognize them due to the compelling nature of situations that have created challenges beyond the abilities of both Legislatures and Courts, requiring specialized knowledge and expertise.

The growth of administrative agencies over the last thirty years has stemmed from legislatures and courts' inability to address effectively and quickly the myriad complexities of an industrial society. Drafting rules and regulations demands too much from legislatures, since rules must be subject to swift adjustments based on hands-on experience. Setting rates for service charges, applying business and labour standards, or assessing property interests for tax purposes cannot be handled by a legislature or a court but only by specialized bodies exercising adaptable quasi-judicial powers. Courts, which handle all aspects of society, are less equipped to develop the specialized knowledge necessary to resolve issues related to specific limited activities such as railroad revenue or employer-employee relations. The significant role played by administrative tribunals in the United States today can be aptly described by a prominent Judge [779]of the American Supreme Court:

"..The interests impacted by administrative decisions likely exceed the dollar value of all money judgments issued by Federal courts each year. They likewise impact the fundamental rights of individuals.."

As a result, administrative tribunals are flourishing in the United States. with backing from the same Judiciary that is hesitant to relinquish the principle of Separation of Powers

[777] Wade and Philips ,constitutional law ,p.54., 1953,
[778] Crowin . constitution of the USA. P.513;forkosch, administration
[779] Jackson , The law in the united states , (1958)

in other contexts. Regarding the amalgamation of investigative, prosecutorial, and judicial functions within one administrative body, the Supreme Court seems to feel powerless and notes that it is Congress's responsibility to address the problem, not the courts[780].

In the United States, administrative tribunals are subject to oversight from courts through the principle of judicial review, supported by the constitutional mandates of the ***Fifth and Fourteenth Amendments*** that state, "No person shall be deprived of his life, liberty, or property, without due process of law." While the definition of 'due process' as applied to administrative tribunals is not strictly uniform and varies according to the nature and function of the tribunals, the minimum requirement aligns with the principles of the English doctrine of 'natural justice,' from which it originated, thus necessitating 'notice and an opportunity to be heard[781].

In practice, laws that grant adjudicatory powers to administrative tribunals typically provide for hearings, but even if a statute fails to do so, the constitutional requirement would allow the court to intervene and annul a decision reached without granting a hearing. Hence, Although the laws empowering the Commissioner to grant, suspend, or revoke a hack The statutes governing driver's licenses do not specifically mandate that these licenses can only be revoked with prior notice and the opportunity for a hearing, yet such a requirement is not essential. When the use of statutory authority negatively impacts property rights, the courts have inferred the need for notice and a hearing, even when the law is silent on the issue. Although the Court maintains its traditional stance that 'Due Process' cannot be compromised by the Legislature or its entities, it has softened the interpretation of 'Due Process.' The Court has determined that a formal hearing in a court of law is not necessary in all circumstances, stating that the requirements of 'Due Process' are fulfilled if an administrative authority's decision can be reviewed before it becomes final.

INDIA:

In India, similar trends can be observed in various recent laws that have delegated quasi-judicial powers to administrative bodies, such as the Transport Authorities and the Claims Tribunal under the ***Motor Vehicles Act of 1939,*** the ***Rent Controller under State Rent Control Acts,*** the Appellate Tribunal under the ***Income-tax Act***, and the ***Copyright Board under the Copyright Act*** of 1958. Additionally, there are specialized tribunals, referred to as special tribunals, which are not traditional courts but possess judicial authority and exhibit court-like attributes, such as the Indian Industrial Tribunal[782]. The proliferation of these tribunals has been fuelled by the expanded welfare role undertaken by the State as per our Constitution, leading to a significant increase in Indian regulations that mandate the establishment of both strictly administrative and quasi-judicial entities.

Similar to the situation in England, the challenge of effectively ensuring that all these tribunals operate under the oversight of regular courts has gained the interest of legal scholars in India. The Law Commission, in its Fourteenth Report[783] submitted in 1958, described the issues as follows: "Some of these laws impact significant rights of citizens and impose burdensome obligations on individuals. They can be generally categorized as relating to revenue and taxation, labour, and land. Some statutes do not grant any right to appeal or seek revision even to higher administrative authorities. Others do provide such rights, but they direct appeals to superior administrative bodies rather than to judicial ones. Only in a limited number of instances do we see an ultimate recourse to a court of law for appeal or revision. Moreover, many statutes explicitly

[780] Marcello v. Bonds,(1955)349 US.302
[781] Wong yang v. McGrath (1954) 307 N.Y.461(468).
[782] Bharat Bank v Employee of Bharat Bank ,(1950) S.C.R.459
[783] The fourteen Rep . of the law commission (Reforms of judicinal administration) ,vol .II. Para .38.

prohibit the presence of legal representatives in administrative proceedings and restrict access to courts for appeals or revisions.

It is astonishing that customs duties are imposed on both sea and land borders under rules that not only assign the determination of duties but also the levying of fines and penalties to administrative officials, offering a process for appeal and revision to superior officers while failing to establish any procedural guidelines for these appeals and revisions. Under these laws, citizens often face substantial penalties without any chance for judicial review in matters that are undoubtedly quasi-judicial in nature. The suggestions put forth by the Commission comprise:

1. Preserving the current jurisdiction of the Supreme Court and the High Court, which allows them to examine, albeit within limits, the actions of administrative bodies.
2. Categorizing decisions into:
    a. judicial and quasi-judicial, and
    b. administrative.
3. In instances of judicial and quasi-judicial decisions, an appeal concerning factual issues should be directed to an independent tribunal led by someone qualified to serve as a Judge of a High Court. This judge may receive assistance from individuals possessing administrative or technical expertise. The tribunal is required to operate with transparency, fairness, and impartiality, as outlined by the Franks Committee.
4. For judicial or quasi-judicial decisions, an appeal or revision regarding legal questions should be taken to the High Court, and special assistance can be provided to support the High Court Judge if needed. The recommendations proposed by the ***Franks Committee*** could be implemented in this regard.
5. Administrative decisions must be accompanied by reasons, which will enable the validity of these decisions to be examined through the appropriate writ machinery.
6. The tribunals issuing administrative rulings should adhere to the principles of natural justice while ensuring operations are transparent, fair, and impartial.
7. Legislation may be enacted to create a straightforward procedure embodying the principles of natural justice for tribunal operations, applicable to all tribunals unless specific provisions exist within the statutes establishing them.

The topic of judicial oversight of administrative actions and decisions, whether quasi-judicial or strictly administrative. This conversation will be divided into two sections:

i. The extent to which statutory tribunals exclude the jurisdiction of ordinary courts.
ii. The examination of administrative actions through judicial review includes decisions made by quasi-judicial bodies. The topic of quasi-judicial decisions will be discussed in a different chapter.

The evolution of law regarding Administrative Tribunals, particularly those established under ***Articles 323A-323B*** of the Constitution of India, has been advanced by the ***42nd Amendment*** of the Constitution in 1976, which added ***Articles 323A and 323B.***

A. COMMON FEATURES OF THESE TWO ARTICLES INCLUDE:

i. They grant the Legislature the authority to establish Administrative Tribunals for resolving disputes between the State and individuals concerning certain specified issues, while also defining the jurisdiction and powers of these Tribunals.
ii. These powers may encompass the authority to hold individuals in contempt.
iii. The law may stipulate the procedures to be followed by these tribunals, including regulations on limitation and evidence.
iv. It may allow for cases pending before a court or other authority to be transferred

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ARTICLE 323A	ARTICLE 323B
Article 323A is limited to issues pertaining to public services.	Article 323B addresses Tribunals concerning any of the matters outlined in clause (2), such as taxation, foreign exchange, labour disputes, land reforms, elections, essential goods, as well as offenses and related matters.
Only one Tribunal can be established for the Union and one for each State or jointly for two or more States (without a hierarchy).	The relevant Legislature has the authority to create a hierarchical structure of Tribunals for each subject mentioned in clause (2).
The exclusive power to enact such laws lies with Parliament.	Legislative authority is shared between the Union and State Legislatures based on their respective competencies over each subject.

to the Tribunals upon their establishment.

v. The laws may include incidental provisions to ensure the effective operation of these Tribunals.

vi. Such laws can exclude the jurisdiction of all courts except for the Supreme Court's jurisdiction under ***Article 136*** concerning such matters.

vii. The stipulations in both Articles will take precedence over any contradictory provisions in the Constitution or other laws.

The Constitution ***(42nd Amendment) Act*** did not stipulate any conditions regarding how administrative tribunals should reach their decisions, nor did it require them to adhere to quasi-judicial procedures that align with the principles of natural justice, leaving it all to be regulated by the relevant laws pertaining to various matters. However, unless the Legislature aims to breach legal principles, it is reasonable to anticipate that it will establish a quasi-judicial obligation, considering that an appeal to the Supreme Court can be made under ***Art. 136*** from the judgments of these Tribunals and that the Supreme Court has determined that functions such as the following are inherently quasi-judicial:

1. Resolving an election dispute.
2. Tax assessment.
3. Settling industrial disputes,
4. Termination of employment.
5. A Revenue Officer, such as a Customs Authority, imposing penalties.
6. Issuing orders that impact an individual's property.

The distinctions between the two Articles are as outlined below:

It's essential to recognize that neither ***Art. 323 A nor 323 B*** are automatically enforceable provisions. They merely empower the designated Legislature to create laws for establishing such Tribunals and to incorporate ancillary provisions within them. In other words, they provide only the constitutional basis for such legislation. Consequently, as long as no law is enacted under ***Art. 323A(2)(d)*** or ***Art. 323B***, the current jurisdiction of ordinary courts and the High Courts under ***Arts. 226-227*** of the Constitution will remain applicable to Administrative Tribunals.

TRIBUNALS AS OUTLINED IN THE ADMINISTRATIVE TRIBUNALS ACT, 1985.

Parliament subsequently enacted the ***Administrative Tribunals Act, 1985***. This Act enforces **Art. 323A** regarding the swift resolution of disputes and grievances concerning the

recruitment and service conditions of employees within the Central and State Governments, as well as local authorities.

In summary, the development of administrative tribunals in the UK, USA, and India showcases distinct methods influenced by different historical contexts, legal traditions, and administrative requirements. While the UK and USA have created well-organized systems that prioritize efficiency and specialization, India's tribunals have grown in response to its particular socio-political circumstances and constitutional structure. Regardless of these variations, all three regions acknowledge the important function of administrative tribunals in providing accessible and impartial dispute resolution outside of traditional courts. Nevertheless, obstacles such as procedural delays, resource limitations, and jurisdictional uncertainties continue to exist universally. Ongoing comparative analysis and reform initiatives are vital to enhance administrative justice systems, making sure they remain adaptable to evolving governance needs and the rights of citizens in an increasingly intricate administrative environment.

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