

Subjective Notes

Administrative law

Law of Tort

Jurisprudence



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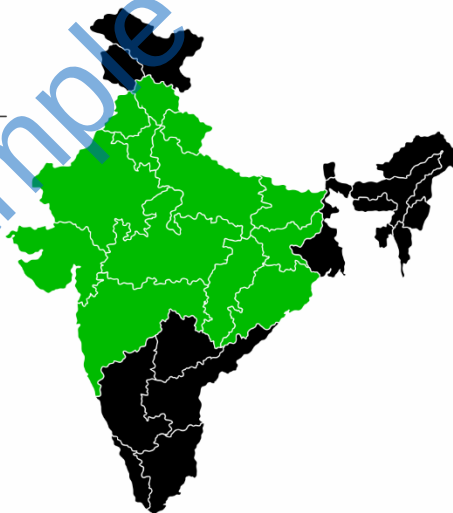
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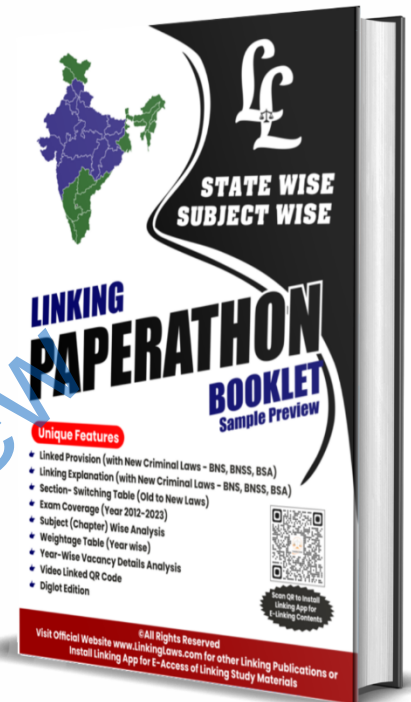
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ADMINISTRATIVE LAW

Diagrammatic Notes

Administrative Law

Definition of Administrative Law

It Deals with

Power

+

Functions

+

Responsibilities

Of - Government and Its Authorities

- Kennath Culp Davis के अनुसार** ⇒ Law concerning administrative agencies.
Albert Venn Dicey के अनुसार ⇒ Law जो Right and Liability (अधिकार और दायित्व) of State Officials को determine करता है
Iver Jennings के अनुसार ⇒ Law जो administrative authorities के Power and Duties (शक्तियाँ और कर्त्तव्य) बताता है

NEED FOR ADMINISTRATIVE LAW

Legislature

GAP FILL

Judiciary

To Reduce Burden

Objective of Adm. Law

To ensure that administrative authorities do not cause dictatorship and totalitarianism by abusing its powers



Administrative law

Administrative law is a branch of public law that governs the activities of administrative agencies of government. It involves the study of the powers, procedures, and actions of administrative authorities, as well as the legal remedies available to individuals affected by administrative decisions.

Definition and Scope

According to the Indian Institute of Law, administrative law deals with the structure, powers, and functions of organs of administration, the methods and procedures followed by them, the methods by which they are controlled, and the remedies available to a person against them when their rights are infringed by their operation.

This encompasses:

- **Establishment, organization, and powers of various administrative bodies:** Understanding how these bodies are formed and the extent of their authority.
- **Delegated legislation:** Examining the rules and regulations created by administrative agencies under the authority delegated by the legislature.
- **Judicial functions of administrative agencies:** Analyzing the quasi-judicial roles these bodies may play, such as adjudicating disputes.
- **Procedural guarantees:** Ensuring principles of natural justice are upheld in administrative processes.
- **Government liability:** Determining the circumstances under which the government may be held liable for its actions.

Nature of Administrative Law

Administrative law is characterized by its focus on the functioning of public authorities and their interaction with individuals. It is not codified in a single statute but is derived from various sources, including the Constitution, statutes, judicial decisions, and administrative regulations. In India, administrative law has largely developed through judicial interpretations and decisions, making it predominantly judge-made law.

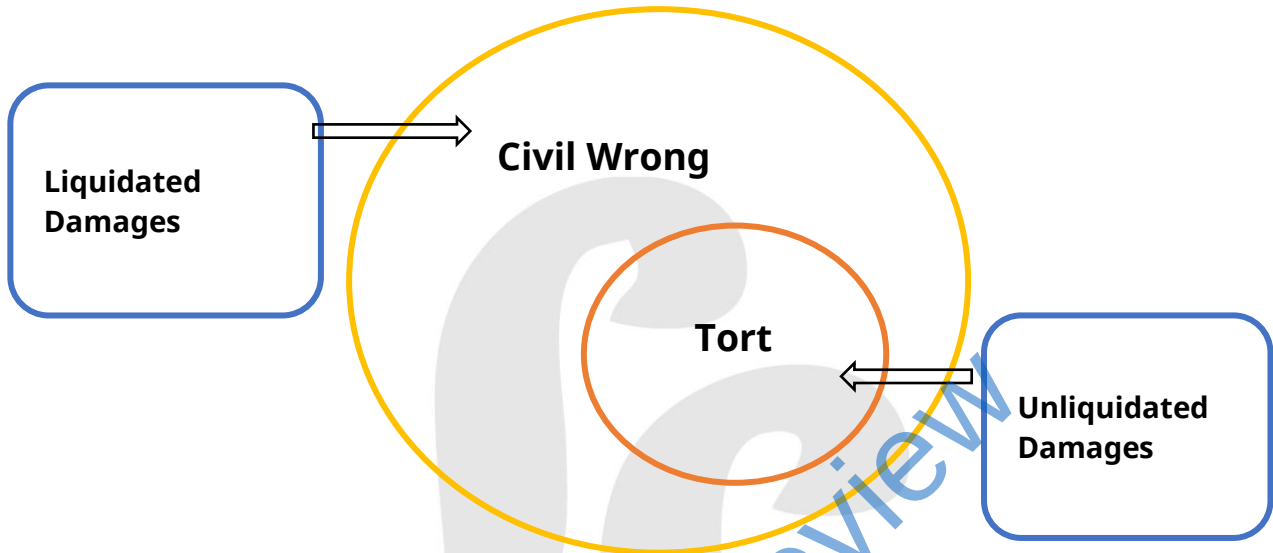
Relationship with Constitutional Law

While constitutional law lays down the fundamental principles and framework of the state, administrative law delves into the detailed functioning of government agencies within that framework. Constitutional law addresses the structure of the legislature and the executive, whereas administrative law focuses on their operations and interactions with the public. The two fields overlap, particularly in areas concerning the control and accountability of administrative actions.

-: BASIC CONCEPT OF TORT :-

Note :- Latin भाषा के Tortum शब्द से Tort बना है।

L. root : 'tortum' [Latin Word] i.e. to twist.



1. A Tort is a Civil wrong but all civil wrongs are not Tort.
2. Tort Law remains uncoded, (as lot of variation happens A judge in tort cases has to exercise his personal discretion to the fullest, in understanding whether a tort has committed or not.) and largely unaffected by statute.

3.

except : intentional Negligence

See Sec. 2(m), Limitation Act, 1963

Tort is a Civil Wrong other than a breach of contract or trust, which the law will redress by action for unliquidated damages.

Unesertain sum
Of Many

Any thing which is not specifically fixed or mentioned, but
at the courts discretion i.e. previously not fixed damages.

Subjective Smart Notes (Law of Torts)

LAW OF TORTS

Nature and definition of tort:-

Introduction to Tort

The term *tort* is derived from the French word meaning "**wrong**" and has its origins in the Latin word **tortum**, meaning "**twisted**" or "**crooked**." In contrast to straight or lawful conduct, tort signifies a deviation from the expected norms of behavior, resulting in harm or injury to another person. Tort law is a branch of civil law that addresses and provides remedies for civil wrongs that do not arise out of contractual obligations.

The primary aim of tort law is to provide relief to the injured party by compensating for the harm caused and deterring others from engaging in similar wrongful conduct.

Nature of Tort

1. **Civil Wrong:** Tort is a civil wrong distinct from criminal wrongs. It involves a breach of a duty primarily fixed by law, owed to individuals, rather than to the state or society as a whole. While crimes result in punishment to protect societal interests, torts primarily aim at compensation for the injured party.
2. **Common Law Origin:** Tort law has its roots in English common law, and many principles and precedents have been carried forward into Indian jurisprudence. It is largely judge-made law, evolving through court judgments and interpretations.
3. **Relational Aspect:** A tort arises from a duty owed to individuals. For example, the duty to drive carefully is owed to pedestrians and other road users. A breach of this duty resulting in injury constitutes a tort.
4. **Remedy-Oriented:** The primary remedy in tort law is the award of monetary compensation (damages) to the injured party. In some cases, injunctions or specific remedies may also be granted to prevent further harm.

Essential Elements of Tort

For a wrongful act to qualify as a tort, the following essential elements must be present:

❖ **Wrongful Act or Omission:**

The defendant must have committed a wrongful act or omission. This act must be legally recognized as wrong and capable of affecting another person's rights. For instance, trespassing onto another's property or negligently causing an accident.

❖ **Legal Duty Owed to the Plaintiff:**

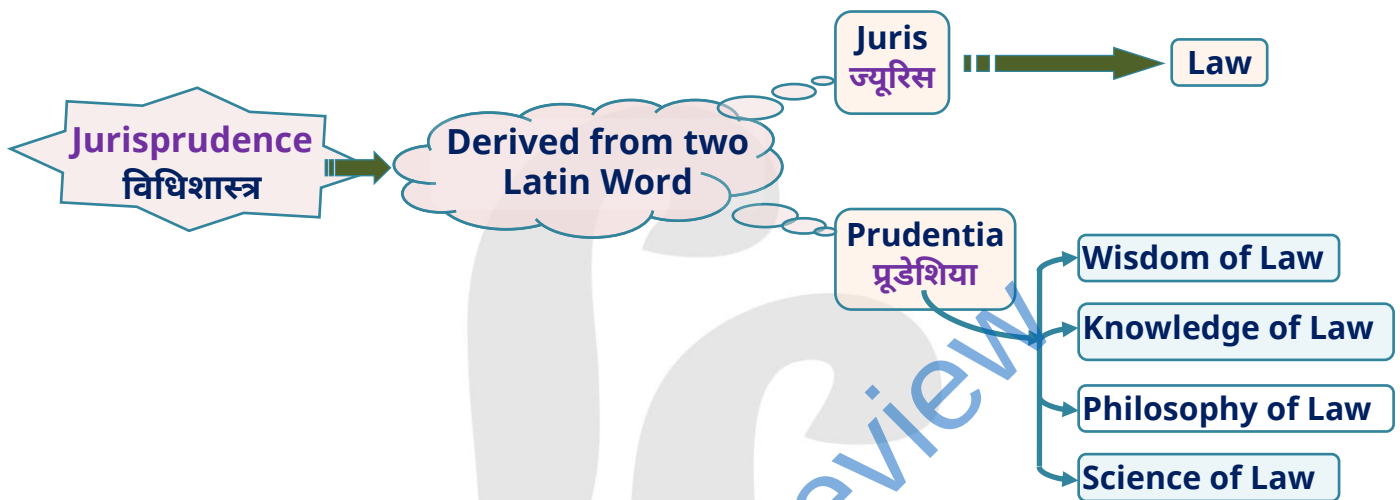
There must be a duty imposed by law on the defendant to act or refrain from acting in a particular manner. This duty is not contractual but arises out of societal expectations and legal standards.

➤ *Example:* A driver owes a duty of care to pedestrians and other road users.

JURISPRUDENCE

Diagrammatic Notes

JURISPRUDENCE / विधिशास्त्र



DEFINITION BY EMINENT JURISTS



ULPAIN : A Celebrated Roman Jurist (170A & 228AD)

The observation of things Human and divine, the knowledge of just and unjust

CRITICISM : Being meta - physical in Nature its value cannot be Evaluated

Subjective Smart Notes (Jurisprudence)

What is Jurisprudence?

1. Nature and Scope of Jurisprudence

- Jurisprudence is a field of study that deals with the fundamental principles and concepts of law. It encompasses the study of the sources of law, the relationship between law and other social sciences and the nature of law itself.
- The scope of jurisprudence is vast and diverse, covering various topics such as legal logic, legal frameworks, human behaviour, politics, economics and culture.

* Contents

1. Meaning of Jurisprudence
2. Definitions of Jurisprudence
3. Nature and Scope of Jurisprudence
 - 3.1. Nature of Jurisprudence
4. Scope of Jurisprudence
5. Difference Between Jurisprudence and Legal Theory
6. Conclusion

* Meaning of Jurisprudence

- The term "jurisprudence" comes from the Latin word "jurisprudentia," which translates to "knowledge of law" in its broadest sense. Specifically, "juris" means law and "prudentia" means skill or knowledge. Therefore, jurisprudence refers to the understanding of law and its practical application.
- Jurisprudence is the study and theory of law, particularly the philosophy of law. It involves examining the fundamental principles and concepts of law, the role and function of law in society and the methods and techniques used to interpret and apply the law.
- Jurisprudence explores the nature of law, legal systems and legal institutions and seeks to understand the social, political and cultural contexts in which law operates. It is a broad field that encompasses a range of perspectives, including legal positivism, natural law, legal realism and critical legal studies. Through the study of jurisprudence, scholars and practitioners seek to develop a deeper understanding of the law and its role in shaping society.

* Definitions of Jurisprudence

- Oxford Dictionary defines 'Jurisprudence' as the systematic and formulated knowledge or the science of human law,

• Definitions by various jurists

- Ulpian a Roman Jurist defines jurisprudence as "Jurisprudence is the knowledge of things divine and human, the science of just and unjust."
- Cicero defines Jurisprudence as "Jurisprudence is the philosophical aspect of the knowledge of law".
- Austin defines Jurisprudence as the "philosophy of positive law".

Administrative law

Practice MCQs

1. Droit Administration is a system of administration:

- | | |
|---------------------|--------------------|
| (1) French system | (2) British system |
| (3) American system | (4) Irish System |

Ans. [1]

Explanation- French administrative law is known as Droit Administration which means a body of rules which determine the organization, powers and duties of public administration and regulate the relation of the administration with the citizen of the country. It does not represent the rules and principles enacted by Parliament. It only contains the rules developed by administrative courts.

2. Delegated legislation was declared constitutional in?

- (1) Berubari case
- (2) Delhi laws act case
- (3) Keshwanand bharti case
- (4) Maneka Gandhi case

Ans. [2]

Linked Provisions :-

1. Berubari Case in 1960, the SC declared that the Preamble is not a part of the Constitution.
2. Later in the Kesavananda Bharati Case in 1973, it held that the Preamble is a part of the Constitution. The Preamble is now an integral part of the Constitution though it is not enforceable in any court of law.
3. Maneka Gandhi vs. Union of India is a landmark case that supports Article 21 of the Constitution's right to personal liberty.

Explanation :- Re The Delhi Laws Act, 1951- The case established the rule that while the authority to amend already-existing laws can be assigned to a subordinate authority, but the authority to amend the fundamental structure of a law cannot.

3. "Mandamus" May be issued by

- | | |
|--------------------|--------------------|
| (1) Supreme court | (2) High court |
| (3) District court | (4) Both (a) & (b) |

Ans. [4]

Linked Provision :- Article 32 L/w 139,226, 358, 359 COI.

Explanation :- Under Article 32, Supreme Court has the power to issue directions, orders or writs for the enforcement of the Fundamental Rights. An Indian citizen can seek justice through five prerogative writs which are as follows -

- 1) Habeas Corpus (You may have the body / let us have the body).
- 2) Mandamus (We command)

- 3) Prohibition (To forbid or Stay order)
- 4) Quo warranto (By what authority or warrant or by what warrants)
- 5) Certiorari (To be certified or to be informed).

4. The provision for administration tribunals is added by

- (1) 42nd Amendment
- (2) 44th Amendment
- (3) 24th Amendment
- (4) 43rd Amendment

Ans. [1]

Linked Provisions :-

1. Part IVA of Article 51A is Fundamental Duties and Article 39A, 43A, 48A, 323A, 323B it was added by Constitution (42nd Amendment) Act, 1976.
2. Article 358 has the effect of suspending the rights given by Article 19.
3. Article 19 (1)(f) and Article 31 of the constitution give citizens the right to keep, acquire, and dispose of their property. Article 31 of the constitution, which deals with property acquisition, has been removed by the 44th Amendment Act.

Explanation :- The 42nd constitutional amendment act of 1976 provided for the setting up of Administrative Tribunals in India. The original constitution did not contain any provisions with respect to tribunals.

5. The Supreme Court of India has issued the direction to make the CBI independent agency so that it can function more effectively and investigate Crimes and Corruptions at high places in public life in the Case of

- (1) Union of India V/s Association For democratic reforms, AIR 2002 SC 2112
- (2) Bangalore medical Trust V/S B.S Muddappa (1991) 45 SC 54
- (3) Vincent Panikurlangra V/s Union of India (1987) 2 SC 165
- (4) Vineent Narayan V/s Union of India, AIR 1998 SC 889

Ans. [4]

Explanation :- The CBI was widely criticised when its prosecutions collapsed, and the Supreme Court of India in deciding the Vineet Narain Case made directions that included new supervision of the CBI by the Central Vigilance Commission.

6. Which Court or Authority has the power to punish any person for contempt of the National Company Law Tribunal:



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Civil Procedure Code, 1908
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- + Civil Minor Laws
- + CPC, 1908
- + Local Laws
- + Family Laws
- + IT Act, 2000
- + A&C Act, 1996
- + Environmental Laws
- + Advocate Act, 1961
- + Land Acquisition, 2013
- + AIBE Additional Bare Acts
- + Consumer Protection Act, 2019
- + Transfer of Property Act, 1882
- + Specific Relief Act, 1963
- + NDPS Act, 1985
- + PCPNDT Act, 1994
- + Food Safety & Standards Act, 2006
- + Motor Vehicles Act, 1988
- + Indian Contract Act, 1872
- + Labour & Industrial Law
- + NI Act, 1881
- and many more

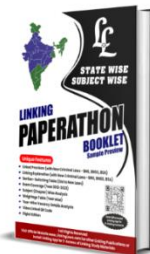
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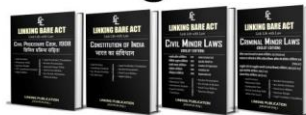


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