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Introduction

This scientific production comes in order to contribute in the empowerment of our dear students to master terminology techniques and help them to master the English language in the field of law speciality in Public Law. This scientific article contains lessons in both spacialities international law and administrative law, directed to master's students , master one and master two levels .

The work methodology was to give lessons in the English language in the field of law, and sometimes I have taken the foreign countries as a case study or model in order to enrich the foreign legal culture of the student, especially in light of the specificity of the legal meaning of the term.

This publication also included a set of exams that the students passed and their corrections , for consolidating the information.

In addition to that the publication also included a list of the most commonly used legal terms in the specialty and their translation into English language .

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Part 01 :

Administrative law speciality

Lesson 01 :

Introduction to Administrative Law

Administrative law refers to :[1]

Administrative law:

The expression "Administrative Law" may mean two different things, namely, (a) law relating to administration, and (b) law made by the administration.

Administrative law refers to the body of laws, procedures,and legal institutions affecting government agencies as they implement legislation and administer public programs. As such, the scope of administrative law sweeps broadly.

Administrative law is part of the branch of law commonly referred to as public law, the law which regulates the relationship between the citizen and the state and which involves the exercise of state power. So, it is a part of the legal framework for public administration. Public administration is the day-to-day implementation of public policy and public programs in areas as diverse as immigration, social welfare, defence, and economic regulation—indeed in all areas of social and economic life in which public programs operate. [2]

Administrative law is the body of law that governs the activities of administrative agencies of government. Government agency action can include rule making, adjudication, or the enforcement of a specific regulatory agenda.

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[1] V. S. Deshpande , Administrative Law : Indian Legal System, Indian Law Institute, New Delhi, [W.E.Y], P 333.

[2] Ishwor Thapa "Administrative Law: Concept, Definition, Nature, Scope And Principle And Its Sources" Public Administration Campus, Tribhuvan University, Balkhu, Kathmandu Thapa On 21 December 2020, pp 01,02 .

Administrative law is considered a branch of public law. Administrative law deals with the decision making of such administrative units of government as tribunals, boards or commissions that are part of a national regulatory scheme in such areas as police law international trade manufacturing the environment, taxation, broadcasting immigration and transport. Administrative law expanded greatly during the twentieth century, as legislative bodies worldwide created more government agencies to regulate the social, economic and political spheres of human interaction .[3]

In most countries, bureaucratic agencies make up the largest part of the governmental sector and generate most of the decisions having a direct impact on citizen's lives.

According to Jain and Jain Administrative law deals with the structure, powers and functions of the organs of administration, the limits of their powers, the methods and procedures followed by them in exercising their powers and functions, the methods by which their powers are controlled including the legal remedies available to a person against them when his rights are infringed by their operation.

Administrative law, according to this definition, deals with four aspects.

_Firstly, it deals with composition and the powers of administrative authorities

_Secondly, it fixes the limits of the powers of those authorities.

_Thirdly, it prescribes the procedure to be followed by these authorities in exercising such powers

_Fourthly, it controls these administrative authorities through judicial and other means.[4]

In the broadest sense, administrative law involves the study of how those parts of our system of government that are neither legislatures nor courts make decisions. These entities, referred to as administrative agencies, are normally located in the

[3] Ishwor Thapa ,Op.Cit , P 02.

[4] Ayush Jha, Asst , Tilaka N.S., Asst, Study Material For Administrative Law , Kle College Of Law, Navi Mumbai , [W.E.Y], P 11.

executive branch of government and are usually charged with the day–to–day details of governing.[5]

Administrative law governs agency decisions to:

- grant licenses, -administer benefits, -conduct investigations,- enforce laws, -impose sanctions, -award government contracts, -collect information, -hire employees, and -make still further rules and regulations.

Administrative law not only addresses a wide and varied array of government actions, it also draws its pedigree from a variety of legal sources.[6]

Administrative decisions made by government bodies are a fact of life: members of the public are confronted with them all the time. Whenever a citizen applies for a building permit, a driving licence or benefits, or is faced with an environmental enforcement measure, an administrative decision is involved; it is in administrative decisions that government bodies give legal shape to governmental regulations. Administrative decisions are juristic acts; they are as it were the legal packaging of everyday experiences such as receiving benefits, learning how to drive, building a house or paying taxes. The legal quality of administrative decisions therefore obviously matters to people. It matters in at least three ways. First of all, when issuing administrative decisions, public authorities should treat citizens according to their rights, including the right to equal treatment and the right to legal certainty. Secondly, the rights of third parties should be protected; for instance, they should not suffer from the external effects of an administrative decision without adequate compensation. Thirdly, the public is entitled to the protection of general public interests. Tax assessments should neither overcharge individual taxpayers nor reduce public revenue. Building permits should not go against the public interests as laid down in zoning laws, but at the same time they should give the applicants the building rights they are entitled to. While legal remedies (review procedures, appeal

[5] William F. Fox, Jr ,Understanding Administrative Law ,Fourth Edition , Library Of Congress Cataloging, United States, 2000, P 01.

[6] C. Coglianese , Administrative law , international.encyclopedia , [W.E.P], [W.E.Y],p 85.

to a court of law) are usually available to citizens who feel they have been unfairly treated by a public authority, it is in the interests of both individual citizens and the general public for government bodies to make legally correct decisions the first time around. Court procedures to review incorrect decisions are cumbersome and costly, both to the individual involved and to the taxpayer. Moreover, if a public authority has a reputation for making the right decisions in the first place, this will generate public trust in the government and reinforce the legitimacy of administrative decision-making.[7]

Approaches to the Study and Practice of Administrative Law

Administrative law can be approached in much the same fashion as many other law school courses. If you regard the field merely as a collection of discrete legal doctrines, it may make a great deal of sense simply to memorize various general principles, to apply those principles to a final examination or a bar examination, and then forget about the topic. This book can be used in that fashion. A more profitable approach, however, to truly understanding administrative law—and for practicing administrative law after your admission to the bar—is to keep two questions in mind from the beginning: What are the rules of the game, both substantive and procedural? and How may I best represent my client before an administrative agency? Thinking through the twin issues of doctrine and the application of that doctrine through the lawyering process will make you a much better lawyer, even if it doesn't necessarily have an immediate payoff in your law school course or on the bar examination. [8]

The administrative law course will become less fuzzy if you keep in mind a few more fundamentals. First, under our constitutional system, agencies are creatures of the legislature. They do not spring up on their own, and they cannot be created by

[7] K.J. de Graaf, J.H. Jans, A.T. Marseille & J. de Ridder , Administrative decision-making and legal quality: an introduction,Europa lawpublishing ,Groninging ,2007 , p 03.

[8] William F. Fox, Jr. UNDERSTANDING ADMINISTRATIVE LAW , FOURTH EDITION, Library of Congress Cataloging-in , San Francisco, 2000 , p 02.

courts. Agencies function only insofar as a legislature has given them the authority to function. That authority may be exceptionally broad (e.g., telling an agency to regulate railroads by applying the standard of "public convenience and necessity") or incredibly narrow (e.g., when Congress sets the specific income levels and other criteria for those persons who qualify for certain government benefits; or when Congress passes a Coal Mine Safety and Health Act, containing provisions that tell mine operators what size of mine roofing bolts to install). Federal administrative agencies are typically endowed with broad, general powers. By contrast, state legislatures often enact far more detailed agency statutes because of a lingering reluctance to give state agencies unfettered power. For example, the Nebraska legislature once enacted a statute prescribing the thickness of the metal walls in milk cans, presumably because the legislature did not trust the relevant administrative agency to make a sound decision on this issue. This kind of statutory detail frequently signals a legislature's distrust with one agency in particular, or, possibly, with the administrative process in general. It is much less common for the United States Congress to get bogged down in the minutiae of administering a particular federal regulatory program because Congress tends to have more confidence in the federal agencies. Whatever form a new administrative agency takes, the legislature must enact a statute creating the agency. This statute, sometimes called an agency's organic act but more frequently referred to as an agency's enabling act, is the fundamental source of an agency's power. This principle—that the legislature creates agencies and sets limits on their authority—should be regarded as cardinal rule number one of administrative law. Far too many people in law school and, on occasion, even experienced practitioners, lose sight of this fundamental principal. A misunderstanding of this basic concept can lead to erroneous assumptions about an agency's ability to deal with a particular issue or problem.[9]

Administrative law, as a body of law, is :

[9] William F. Fox, Jr. UNDERSTANDING ADMINISTRATIVE LAW , op.cit , p 03.

- part constitutional Law,- part statutory law,- part internal policy, and, in some systems,- part common law. The organization and structure of administrative agencies can be shaped by constitutions or statutes. The procedures used by these agencies can be dictated by constitutional law (such as to protect certain values such as due process), by generic procedural statutes (such as the us administrative procedure act), or by statutes addressing specific substantive policy issues such as energy, taxation, or social welfare. As a result, administrative procedures can vary significantly across agencies, and even within the same agency across discrete policy issues.[10]

In administrative law, **the term Administration** is used in its broadest possible sense and covers within its reach.

1. All executive actions, its programs and policies
2. All administrative aspects of parliament and judiciary
3. All actions of state like actors (agency and instrumentality of state)
4. All actions of non-state actors (private entities) exercising public functions.[11]

Sir Ivor Jennings defines administrative law as the law relating to administration.

It determines the organization, powers and duties of administrative authorities. This formulation does not differentiate between Administrative and Constitutional law. It lays entire emphasis on the organization, power and duties to the exclusion of the manner of their exercise. For example, administrative law is not concerned with how a minister is appointed but only with how a minister discharges his functions in relation to an individual or a group. How the minister of housing and rehabilitation is appointed is not the concern of administrative law, but when this minister approves a scheme for a new township, which involves the acquisition of houses and lands of persons living in that area, questions of administrative law arise. Sir Ivor Jennings formulation also leaves many aspects of administrative law untouched, especially the control mechanism.[12]

[10] Ibid,p25.
[11] Ayush Jha, Asst , Tilaka N.S, Asst,Op.Cit , P 09.
[12] Ayush Jha, Asst , Tilaka N.S, Asst,Op.Cit , P 09.

Administrative law, in all its varied forms, speaks ultimately to how government authority can and Ought to be exercised. By directing when and how governmental power can be employed, administrative law of necessity confronts central questions of political theory, particularly the challenge of reconciling decision-making by unelected administrators with democratic principles. The study of administrative law is characterized in part by prescriptive efforts to design rules that better promote democratic and other values, including fairness, effectiveness, and efficiency. At its core, administrative law scholarship seeks to understand how law can affect the behavior of governmental Officials and organizations in such a way as to promote important social objectives. As such, administrative law is also characterized by positive efforts to explain the behavior of governmental organizations and understand how law influences this behavior.

For our purposes, we may define administrative law as that branch of public law which deals with the organization and powers of administrative and quasi administrative agencies and prescribes principles and rules by which an official action is arranged and revealed in relation to individual liberty and freedom. Thus defined, administrative law attempts to regulate administrative space, domestic and global, in order to infuse fairness and accountability in the administrative process necessary for securing equity and inclusiveness in the domestic and world order. It can be concluded that administrative law is that portion of law which determines the organization, powers and duties of administrative authorities, administrative agencies, quasi administrative authorities and the law that governs the judicial review of administrative activities.[13]

Although administrative law scholarship has a rich tradition of doctrinal analysis, the insights, and increasingly the methods, of social science have become essential for achieving an improved understanding of how administrative law and judicial review can affect democratic governance.[14]

[13]Ayush Jha, Asst , Tilaka N.S, Asst,Op.Cit , pp 11 ,12.

[14] C. Coglianese , Op.Cit ,p 85.

« If you want to live a happy life, tie it to a goal, not to people or objects. »

Albert einstein

Lesson 02 :
Administrative Tribunals in Canada

1-What is a Tribunal?

Tribunals handle cases given to them based on rules of law. They are useful because they settle conflicts between people.

They settle the conflicts of people who cannot agree with each other using negotiation or mediation. Decisions at a tribunal are made by a decision-maker.[15]

2-What is an Administrative Tribunal?

Administrative tribunals are a type of tribunal.They were created to provide justice between citizens and the government.Every administrative tribunal specializes in an area, for example: labour relations, alcohol permits, employment insurance, human rights.There are many of them in Canada, there are hundreds of different administrative tribunals, each day, administrative tribunals handle many cases.

In some administrative tribunals, the cases are very short.They take a few months to settle. Other administrative tribunals handle cases that are a lot more complicated. These cases can take years.

The law says that all tribunals must be independent from the government.An administrative tribunal and its decision-makers must be neutral.

They cannot have an interest or bias in a case or towards the people in the case.

Even though the government pays the decision-makers, the decision-makers must make decisions that they think are right, without being scared of losing their job.[16]

3-The office of the tribunal :

Office of the tribunal makes sure the tribunal works properly.Often, it is a service counter in the building of the tribunal.This is where all the tribunal's decisions are kept.This is the place where you hand in papers for your file.

There are administrative tribunals that act in a certain territory, like in a province or all of Canada.These tribunals do not always have an office in every region.

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[15] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills, Council Of Canadian Administrative Tribunals, Educaloi , Québec , April 2007. P05.
[16] Ibid,p06.

When the tribunal sends out official papers, it is normally the office that sends them.This is true for the notice of hearing.

The notice of hearing is a paper sent to the people in a case. This paper tells them the place, date and time of the hearing.

The office clerk is one of the employees of the office,he can carry out official functions .He can sign procedures to make them legal

For example and he can sign a summons to appear.

A **summons to appear** is a paper ordering a person to go before a tribunal to testify. This paper tells you the place, date and time of the hearing. It is also called a **subpoena.**

4-The decision-maker :

The decision-maker leads the hearing at the tribunal.The government has laws about how to name or replace the decision-makers. Depending on the tribunal, the decision-maker can also be called commissioner, administrative judge, arbitrator or member,other names might be used. He is often a judge or lawyer.

Before a hearing, the decision-maker reads the file of the case that will be heard.

All of the evidence is in this file.The evidence might be photos, letters, or contracts, this gives the decision-maker a good idea about the case, and he can take some time to look over the law in the case.[17]

The parties are the people in a case who have a conflict.The applicant and the respondent are parties.

When the parties have finished presenting their evidence and trying to convince the decision-maker, he has several choices, he can leave to think about his decision, he can also leave to go and check the law.The time he takes is called "**advisement".**

[17] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit ,p p 08_10 .

The decision-maker takes the time he needs to think about things, It can happen that he does not take any time to think over his decision.He can make his decision at the hearing.This is called making a decision "**from the bench"**.

The office of the tribunal sends the written decision to the parties.Sometimes, at the hearing, an advisor helps the decisionmaker make his decision.

This advisor is called an "assessor".

5-The lawyer and the representative :

A" lawyer" is a specialist who knows the law.She advises her clients and speaks for them at the tribunal.

A lawyer prepares documents for her clients.She and her client figure out the best way to present the case.

A lawyer must respect professional secrecy.All the information and papers you give to a lawyer are kept secret.A lawyer can only share this information if the client agrees to it. The lawyer talks to her client to understand the situation.

The lawyer must know what sort of evidence there is.She has to decide if there is enough evidence, she then tells her client what his choices are, depending on the law and the evidence, even though the lawyer is the expert, it is still up to the client to decide what to do.[18]

The hearing is when the decision-maker and parties meet in the hearing room. The parties present their evidence, question witnesses and present their arguments. Then the decision-maker gives his decision.

6-The application and the applicant :

If you want an administrative tribunal to make a decision about a situation, you have to ask for it in writing.

The application : is a written document, a procedure.it is also called a motion or

[18] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit ,p 12 .

It is a formality used to open a file at the tribunal.

The office of the tribunal often provides forms for the main application.The tribunal rules always say that the main application has to have certain information in it.

For example, you have to write the applicant's name, address and phone number.

7-Other applications or motions :

Other applications can be made to the tribunal during the proceedings.These other applications must be related to the main application.

A decision-maker gives a decision on every application.Some applications are made at the beginning of the proceedings. They are used to get ready for the case.There are also more general applications related to the hearing.And there are applications related to the decision. The tribunal's rules tell you how to present these applications.Whether the application is written or oral, it is usually argued at a hearing.

The "proceedings" means the period of time between the beginning and end of the trial.

A-Applications before the hearing :

These applications are also called preliminary applications.

They can challenge the whole case.For example, a respondent might say that:

• the applicant chose the wrong administrative tribunal

• the tribunal does not have the right to handle the case

• the application is not detailed enough

• the application was made too late.

B-Applications about the hearing

These applications are mostly about:

• changing the hearing date

• changing where the hearing will be

• changing the decision-maker

• making witnesses leave the hearing room

• making the public leave the hearing room (closed hearing)

• not letting the media publish what was said in the hearing .

The rules of the tribunal tell you how and when to make these applications.

C-Application for postponement

You can make an application for postponement if you want to change the date and time of the hearing.

D-Application for revocation

Even if the final decision has been made, you can still make applications to the tribunal.

It lets you cancel a decision that was made without one of the parties there, it lets you start the hearing over.This application is only for very special cases.and it must be given to the administrative tribunal only a few days after the party finds out about the decision.The party's reason for being absent has to be serious, a person can be absent because of an accident, illness or death of a loved one.[19]

8-The hearing :

" **The hearing**" is when the parties present their evidence to the decision-maker. They try to convince the tribunal that they are right.

The hearing must be public,everyone can go and watch it.

At the hearing, the parties have the right :

_ to present evidence.

_ to examine and cross-examine the witnesses.

_ to discuss and defend their ideas.

The hearing is divided into steps.

At the beginning, the decision-maker and the hearing clerk make sure everyone is there. Then the decision-maker summarizes the application and says how things will work during the hearing.

In long cases, the parties might even summarize their case for the decision-maker.

[19] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit ,p14 _19.

9-The inquiry :

"The inquiry" is when the parties present their evidence to the decision-maker.

Normally, the applicant presents his evidence first.He calls his witness to the witness box, which is at the front,facing everyone.The witness takes an oath (he swears) to tell the truth.

10-The pleading :

" **Pleading"** means a person states what they think and why.

The pleading is when the parties tell the decision-maker what they think about the case.

In general, the applicant speaks or pleads first.Then the respondent speaks.The applicant may have the right to answer to the respondent's pleading.

« Optimism is the one quality more associated with success and happiness than any other. »

Brian Tracy

Lesson03:
Administrative Tribunals in Canada-2-

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11-Evidence :

[20] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit ,p20.

Evidence is the most important thing in convincing the decision-maker.

The decision made by the decision-maker is based only on the evidence.

There are different types of evidence:

- witness evidence or testimonial evidence
- documentary evidence
- opinion evidence, normally from an expert
- objects as evidence
- written testimony under oath or affidavit

There is also admission evidence.[21]

*-Rules of evidence :

There are many rules about what sort of evidence you can hand in.

Rules of evidence are less strict before administrative tribunals.This makes hearings simpler and faster.

Evidence must meet certain conditions to be accepted.

1- The evidence has to be related to the case. This is called relevance.

2- The evidence has to be from a source that can be trusted.

3- The evidence cannot be unjust for the other party, it must be fair.

If evidence does not meet one of these conditions, the decision-maker can refuse to allow it to be handed in. He will not consider it.[22]

12-Objections :

Everyone must respect the rules of evidence.When a party wants to submit evidence, the other party can object to it. When a party wants to object to something, he says,"Objection."

13-The decision :

The decision is the most important step for the parties. The applicant and the parties go through all the other steps of the proceedings to get a decision.

[21] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit , pp 21,22.

[22] Ibid,p27.

*Enforcing the decision :

If the decision-maker has given his decision and the applicant gets what he wanted, two things can happen:

1. The respondent might do what he is asked. He might respect the decision. This is called **voluntary execution**.

2. If the respondent refuses to respect the decision, he can be forced. This is called **forced execution.**

The applicant can use forced execution procedures, these force the respondent to obey the tribunal's decision.

The decision will often order the respondent to pay an amount of money, if he does not pay it, it is possible to go to his home and take his things.This is called **seizure.** And it is possible to take belongings that equal the amount of money awarded by the decision-maker.[23]

14-Reconsideration, appeal and judicial review :

1-Reconsideration : Reconsideration allows an administrative tribunal to take a second look at its decision.One of the two parties has to ask for it.

The reasons that allow for a reconsideration can be found in rules of procedure.

Reconsideration is possible if :

_ new evidence is found.

_ there was a problem with formalities.

Another decision-maker from the administrative tribunal reconsiders the decision without having another hearing.

2-Appeal : An appeal allows you to challenge an administrative tribunal's decision before another tribunal.

The other tribunal is called an **appeal tribunal**.

This measure makes sure that laws are understood and applied in a stable way.

Not all the decisions of all administrative tribunals can be challenged on appeal.

[23] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit ,p

Administrative tribunal decisions are often final.If an appeal is possible, there are rules to follow.You have to do it at the right time and in the right way.

There are different ways to appeal a decision.

The appeal tribunal makes its decision by looking at the evidence given to the administrative tribunal.

The appeal tribunal decides if the decision-maker at the administrative tribunal made a mistake.

3-Judicial review :

Judicial review is used to try to cancel an administrative tribunal's decision.This happens when an administrative tribunal makes a certain kind of error or a serious error.

Judicial review can also be called the "**superintending and reforming power"** of courts.Only the superior courts and the Federal Court of Canada have this power. You can ask for judicial review in three situations:

1- When the decision-maker did not have the right to handle the case.

2- When the decision-maker did not respect basic rules of justice.

3- when the decision-maker really did not understand the law or events in the case.[24]

judicial review meaning in the constitutional text, and he places so little value on the rights of individuals. Not surprisingly, it is hard to explain an institution without considering its principal source of authority and its principal reason for existence.[25]

15-Different ways of settling a conflict :

Administrative tribunals encourage people to settle their conflicts without having a hearing.They suggest other methods.These methods are quick, effective and cost less.

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[24] Administrative Tribunals In Canada : Plain-Language Guide For People With Low Literacy Skills,Op.Cit ,pp 33,34.

[25] Robert F. Nagel, Notes on the Role of Judicial Review, the Expansion of Federal Power, and the Structure of Constitutional Rights ,University of California Press, California, 1989, p 1747 .

They are used to settle most of the cases before an administrative tribunal.They allow you to avoid having a hearing.They are just one of the steps of a case that is before an administrative tribunal.

A case can be settled by **negotiation, conciliation and mediation**. The goal of these methods is to find a solution that makes all the parties happy.For this to work, both parties have to agree to settle their conflict in this way.They have to agree to accept a settlement. If needed, they can do this with the help of a neutral person called a conciliator or mediator.

1-Negotiation : Negotiation a non biding process dependent upon the volition of parties[26] starts when people want to reach an agreement using discussion and compromise.

A compromise is a settlement that is accepted.

People usually try negotiation before going to a tribunal.It can also be done even if the case has already started.

2-Mediation : Mediation is like negotiating, but with the help of a mediator.

The mediator is a neutral person.

-makes the dialogue and conversation easier.

- has an important role.

- can suggest solutions to the parties.

3-Conciliation : Conciliation is a lot like mediation. People often think it means the same thing, but it is a bit different.

The conciliator's role is different.- He just helps the parties talk to each other.

-He does not suggest a solution.

[26] R.V. ravee .raveendran ,Mediation : an introduction ,supreme court of india ,India ,p 03.

« Don't compare youself with anyone in this world …if you do so, you are insulting yourself »

Bill gates

Lesson 04:

Courts and Administrative Law

As much as the connections between elected officials and administrators have been emphasized in administrative law, the relationship between courts and administrators has figured still more prominently in the field. Even when

administrative procedures are created through legislation, the enforcement of such procedures often remains with judicial institutions.

Courts have also imposed their own additional procedures on agencies based on constitutional and sometimes common law principles. As with democratic issues, scholarly attention to the role of the courts has both prescriptive and positive aspects.

The main prescriptive focus has been on the degree to which courts should defer to the decisions made by administrative agencies. Much doctrinal analysis in administrative law acknowledges that administrative agencies' capacity for making technical and policy judgments usually exceeds that possessed by courts.

Even in legal systems with specialized administrative courts, agency staff often possess greater policy expertise than judges, not to mention that administrators are probably more democratically accountable than tenured judges. These considerations have long weighed in favor of judicial deference to administrative agencies. On the other hand, it is generally accepted that some credible oversight by the courts bolsters agencies' compliance with administrative law and may improve their overall performance. The prescriptive challenge therefore has been to identify the appropriate strategies for courts to take in overseeing agency decision-making.

This challenge typically has required choosing a goal for judicial intervention, a choice sometimes characterized as one between sound technical analysis or an open, pluralist decision-making process (Shapiro 1988). Courts can defer to an agency's policy judgment, simply ensuring that the agency followed transparent procedures. Or courts can take a careful look at the agency's decision to see that it was based on a Administrati.e Law thorough analysis of all relevant issues. The latter approach is sometimes referred to as `hard look' review, as it calls for judges to probe carefully into the agency's reasoning. Courts also face a choice about whether to defer to agencies' interpretations of their own governing legislation instead of imposing judicial interpretations on the agencies. Prescriptive scholarship in administrative law seeks to provide principled guidance to the judges who confront these choices.

Judicial decisions are infuenced in part by legal principles. Empirical research has shown, for example, that after theUSSupreme Court decided that agencies' statutory

interpretations deserved judicial deference, lower courts made a signi®cant shift in favor of deferring to agency interpretations (Schuck and Elliott 1990). Nevertheless, just as administrators themselves possess residual discretion, so too do judges possess discretion in deciding how deferential to be. Other empirical research suggests that in administrative law, as in other areas of law, political ideology also helps explain certain patterns of judicial decision-making (Revesz 1997).

In addition to empirical research on judicial decision-making, the ®eld of administrative law has been concerned centrally with the impact of judicial review on agency decision-making. Normative arguments about judicial review typically depend on empirical assumptions about the effects courts have on the behavior of administrative agencies. Indeed, most legal scholarship in administrative law builds on the premise that judicial review, if employed properly, can improve governance (Sunstein 1990, Edley 1990). The effects often attributed to judicial review include making agencies more observant of legislative mandates, increasing the analytic quality of agency decision-making, and promoting agency responsiveness to a wide range of interests. Administrators who know that their actions may be subjected to review by the courts can be expected to exercise greater overall care, making better, fairer, and more responsive decisions than administrators who are insulated from direct oversight.

Notwithstanding the bene®cial effects of courts on the administrative process, legal scholars also have emphasized increasingly courts' potentially debilitating effects on agencies. It has widely been accepted, for example, that administrators in the United States confront a high probability that their actions will be subject to litigation. Cross-national research suggests that courts ®gure more prominently in government administration in the USA than in other countries (Brickman et al. 1985, Kagan 1991). The threat of judicial review has been viewed as creating significant delays for agencies seeking to develop regulations (McGarity 1992). In some cases, agencies have been said to have retreated altogether from efforts to establish regulations. The US National Highway Traffic Safety Administration (NHTSA) is usually cited as the clearest case of this so-called `ossification'

effect, with one major study suggesting that NHTSA has shifted away from developing new auto safety standards in order to avoid judicial reversal (Mashaw and Harfst 1990). Other research, however, indicates that the threat of judicial interference in agency decision-making has generally been overstated. Litigation challenging administrative action in the United States occurs less frequently than is generally assumed (Harrington 1988, Coglianese 1997), and some research indicates that agencies can surmount seemingly adverse judicial decisions to achieve their policy objectives (Jordan 2000).

Concern over excessive adversarialism in the administrative process persists in many countries. Government decision makers worldwide are pursuing collaborative or consensus-based processes when creating and implementing administrative policies. In the USA, an innovation called negotiated rulemaking has been used by more than a dozen administrative agencies, speci®cally in an effort to prevent subsequent litigation.

In a negotiated rulemaking, representatives from government, business, and nongovernmental organizations work toward agreement on proposed administrative policies (Harter 1982). In practice, however, these agreements have not reduced subsequent litigation, in part because litigation has ordinarily been less frequent than generally thought (Coglianese 1997). Moreover, even countries with more consensual, corporatist policy structures experience litigation over administrative issues, often because lawsuits can help outside groups penetrate close-knit policy networks (Sellers 1995). In pluralist systems such as the USA, litigation is typically viewed as a normal part of the policy process, and insiders to administrative processes tend to go to court at least as often as outsiders (Coglianese 1996).

Courts' impact on the process of governance has been and will remain a staple issue for administrative law. In order to understand how law can have a positive infuence on governing institutions within society, it is vital to examine how judicial institutions affect the behavior of government organizations.

Empirical research on the social meaning and behavioral impact of litigation in an administrative setting has the potential for improving prescriptive efforts to craft

judicial principles or redesign administrative procedures in ways that contribute to more effective and legitimate governance.

C. Coglianese

« If you want to live a happy life, tie it to a goal, not to people or objects. »

Albert einstein

Lesson 05:

Rule of Law in Administrative Law

The Expression **« Rule of Law »** plays an important role in the administrative law. It provides protection to the people against the arbitrary action of the administrative authorities. The expression « rule of law » has been derived from the French phrase « la Principle de legality » , a government based on the principles of law. In simple words, the term **« rule of law »** : « indicates the state of affairs in a country where, in main, the law rules. » . Law may be taken to mean mainly a rule or principle which governs the external actions of the human beings and which is recognized and applied by the State in the administration of justice.

Rule of Law is a dynamic concept.

It does not admit of being readily expressed. Hence, it is difficult to define it.Simply speaking, it means supremacy of law or predominance of law and essentially, it consists of values.

The concept of the rule of Law is of old origin**." Edward Coke"** is said to be the originator of this concept, when he said that the King must be under God and Law and thus vindicated the supremacy of law over the pretensions of the executives. Prof. **"A.V. Dicey"** later developed on this concept in the course of his lectures at the Oxford University. Dicey was an individualist , he wrote about the concept of the Rule of law at the end of the golden Victorian era of laissez-faire in England. That was the reason why Dicey's concept of the Rule of law contemplated the absence of wide powers in the hands of government officials. According to him, wherever there is discretion there is room for arbitrariness.

Dicey said: "It means, in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government. Englishmen are ruled by the law, and by the law alone; a man may with us be punished for a breach of law, but he can be punished for nothing else. It means, again, equality before the law, or the equal subjection of all classes to the ordinary law courts; the 'rule of law' in this sense excludes the idea of any exemption of officials or others from the duty of obedience to the law which governs other citizens or from the jurisdiction of the ordinary tribunals; there can be with us nothing really corresponding to the 'administrative law' (droit administratif) or the 'administrative tribunals' (tribunaux administratifs) of France. [27]

The notion which lies at the bottom of the 'administrative law' known to foreign countries is, that affairs or disputes in which the Government or its servants are concerned are beyond the sphere of the civil courts and must be dealt with by special

[27] Sarbjit Kaur Alka Chawla And Others , Administrative Law Cases Selected ,Faculty Of Law University Of Delhi, Delhi,2023 , P01 .

and more or less official bodies. This idea is utterly unknown to the law of England, and indeed is fundamentally inconsistent with our traditions and customs."

According to Dicey, the Rule of Law, as he formulated it, was a principle of the English Constitution. The preface to the first edition says that the book "deals with only two or three guiding principles which pervade the modern Constitution of England," and the book shows that the Rule of Law is one such principle.

This is important, for the modern version of that rule does not assert that it is a principle of the English Constitution, but that the rule is an ideal by reference to which that Constitution must be judged. Dicey's "Rule of Law" has been criticised by eminent writers. I will, however, make certain observations about Dicey's "Rule of Law" which would be generally accepted today.

(a) Dicey wrote in the hey-day of laissez-faire and he dealt with the rights of individuals not with the powers of the administration. [28]

(b) It is tempting to say that the welfare state has changed public law, and consequently delegated legislation and the exercise of judicial functions by administrative bodies have increased. But the true view is that Dicey's Rule of Law, which was founded on the separation of powers, fixed public attention on administrative law and delegated legislation. Dicey dealt with individual liberty and criticised administrative discretion. But he did not deal with the administration as such, and he failed to distinguish between discretion given to public officials by statute and the arbitrary discretion at one time claimed by the King.

(c) Administrative law existed in England when Dicey's book was published in 1885. the "prophetic vision" of Maitland saw in 1887 that even as a matter of strict law it was not true the executive power was vested in the King. England, he said, was ruled by means of statutory powers which could not be described as the powers of the King. All that we could say was that the King had powers, this Minister had powers and that Minister had powers. In oft quoted words, Maitland said that England was becoming a much governed nation, governed by all manner of councils

[28] Ibid , pO1 .

and boards and officers, central and local, high and low, exercising the powers which had been committed to them by modern statutes. And Prof. Wade has come to the same conclusion in his appendix to the ninth edition of Dicey's Law of the Constitution.[29]

(d) In his Law of the Constitution, Dicey did not refer to the prerogative writs of mandamus, prohibition and certiorari by which superior courts exercised control over administrative action and adjudication. These writs belong to public law and have nothing to do with private law, and had he noticed those writs he could not have denied the existence of administrative law in England.

(e) Dicey's picture of the Englishmen protected by the Rule of Law, and the Frenchmen deprived of that protection because public authorities in France enjoyed privileges and immunities is now recognised as a distorted picture. This recognition is not confined to academic lawyers. An eminent judge, Lord Denning, has said that far from granting privileges and immunities to public authorities, the French Administrative Courts exercise a supervision and control over public authorities which is more complete than which the Courts exercise in England. And that is also the view of leading writers on Constitutional and Administrative Law today. Dicey himself showed "a change of heart" in his long Introduction to the eighth edition of the Law of the Constitution. There, he doubted whether law courts were in all cases best suited to adjudicate upon the mistakes or the offences of civil servants, and he said that it was for consideration whether a body of men who combined legal knowledge with official experience, and who were independent of government, would not enforce official law more effectively than the High Court. It is a measure of Dicey's intellectual integrity that he abandoned the doctrine of a lifetime and recognized official law, and a special tribunal substantially on the lines of the Couseil d'Etat, as better suited to enforce that law than the High Court. It is unfortunate that Dicey did not re-write the book in the eighth edition, but contended himself with a long Introduction which marked a real change in his thinking. The

[29] Sarbjit Kaur Alka Chawla And Others ,op.cit,p 02.

text remained unchanged, and the Introduction was forgotten or ignored, so that an intemperate judge like Lord Hewart L.C.J. could speak of "the abominable doctrine that, because things are done by officials, therefore some immunity must be extended to them." Coming from a Lord Chief Justice, these words seen ironic, for, on grounds of public policy, the most malicious words of judges of superior courts in the discharge of their judicial duties enjoy absolute immunity. But Lord Hewart would have been shocked had anyone spoken of "the abominable doctrine that because things are done by judges in their judicial capacity, therefore, some immunity must be extended to their most malicious words." [30]

(f) When Dicey maintained that the Rule of Law required "the equal subjection of all classes to the ordinary law of the land administered by ordinary courts" and that the Rule of Law was inconsistent with administrative law and administrative tribunals, he created a false opposition between ordinary and special law, and between ordinary courts and special tribunals. The two kinds of laws existed even in his day, and ordinary courts, as well as special tribunals, determined the rights of parties. His antithesis was false in fact and untenable in principle. A law administered by the courts and by special tribunals is equally the law of the land; the determinations of courts and of special tribunals are determinations under the law. As we have seen, Dicey himself came to recognise that it may be necessary to create a body of persons for adjudicating upon the offences or the errors of civil servants as such adjudication may be more effective in enforcing official law. This effectively destroyed the opposition between ordinary law administered by ordinary courts and special law administered by special tribunals. As Devlin J., speaking of England, put it, it does not matter where the law comes from: whether from equity, or common law or from some source as yet untapped. And it is equally immaterial whether the law is made by Parliament, or by judges or even by ministers, for what matters is "the Law of England."[31]

[30] Sarbjit Kaur Alka Chawla And Others ,op.cit,p 02.
[31] Sarbjit Kaur Alka Chawla And Others ,op.cit,p 03.

Meanings to Rule of Law :

Further he attributed three meanings to Rule of Law :

1_ The First meaning of the Rule of Law is that ‘no man is punishable or can lawfully be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.

2_The Second Meaning of the Rule of Law is that no man is above law: every man whatever be his rank or condition. is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals .

3_The Third meaning of the rule of law is that the general principle of the constitution are the result of judicial decisions determining the rights of private persons in particular cases brought before the court.

The administrative law is much concerned with the control of the discretionary power of the administration. It is engaged in finding out the new ways and means of the control of the administrative discretion.

According to" **Dicey"** the rule of law requires that every person should be subject to the ordinary courts of the country. " **Dicey"**has claimed that there is no separate law and separate court for the trial of the Government servants in England. He critcised the system of droit administratif prevailing in France. In France there are two types of courts Administrative Court and Ordinary Civil Courts. The disputes between the citizens and the Administration are decided by the Administrative courts while the other cases, (i.e. the disputes between the citizens) are decided by the Civil Court. Dicey was very critical to the separation for deciding the disputes between the administration and the citizens .

The Rule of Law requires equal subjection of all persons to the ordinary law of the country and absence of special privileges for person including the administrative authority. This proportion of Dicey does not appear to be correct even in England. Several persons enjoy some privileges and immunities. For example, Judges enjoy immunities from suit in respect of their acts done in discharge of their official

function. Besides, Public Authorities Protection Act, 1893, has provided special protection to the official.

Foreign diplomats enjoy immunity before the Court. Further, the rules of 'public interest privilege may afford officials some protection against orders for discovery of documents in litigation.' Thus, the meaning of rule of law taken by Dicey cannot be taken to be completely satisfactory.

Third meaning given to the rule of law by Dicey that the constitution is the result of judicial decisions determining the rights of private persons in particular cases brought before the Courts is based on the peculiar character of the Constitution of Great Britain.

The concept of rule of law, in modern age, does not oppose the practice of conferring discretionary powers upon the government but on the other hand emphasizing on spelling out the manner of their exercise. It also ensures that every man is bound by the ordinary laws of the land whether he be private citizens or a public officer; that private rights are safeguarded by the ordinary laws of the land .

Thus the rule of law signifies that nobody is deprived of his rights and liberties by an administrative action; that the administrative authorities perform their functions according to law and not arbitrarily; that the law of the land are not unconstitutional and oppressive; that the supremacy of courts is upheld and judicial control of administrative action is fully secured.

Basic Principles of the Rule of Law

1. Law is Supreme, above everything and every one. No body is the above law.
2. All things should be done according to law and not according to whim .
3. No person should be made to suffer except for a distinct breach of law.
4. Absence of arbitrary power being hot and sole of rule of law
5. Equality before law and equal protection of law
6. Discretionary should be exercised within reasonable limits set by law
7. Adequate safeguard against executive abuse of powers
8. Independent and impartial Judiciary

9. Fair and Justice procedure
10. Speedy Trial

« Don't compare youself with anyone in this world …if you do so, you are insulting yourself »

Bill gates

Lesson 06:

Administrative Law and Democracy

Administrative agencies make individual decisions affecting citizens' lives and they set general policies affecting an entire economy, but they are usually headed by officials who are neither elected nor otherwise directly accountable to the public.Afundamental challenge in both positive and prescriptive scholarship has been to analyze administrative decision-making from the standpoint of democracy. This challenge is particularly pronounced in constitutional systems such as the

United States' in which political party control can be divided between the legislature and the executive branch, each seeking to influence administrative outcomes. Much work in administrative law aims either to justify administrative procedures in democratic terms or to analyze empirically how those procedures impact on democratic values.

A common way of reconciling decision-making by unelected administrators with democracy has been to consider administrators as mere implementers of decisions made through a democratic legislative process.

This is sometimes called the `transmission belt' model of administrative law (Stewart 1975). Administrators, under this model, are viewed as the necessary instruments used to implement the will of the democratically controlled legislature. Legislation serves as the `transmission belt' to the agency, both transferring democratic legitimacy to administrative actions and constraining those actions so that they advance legislative goals.

As a positive matter, the `transmission belt' model underestimates the amount of discretion held by administrative officials. Laws require interpretation,and in the process of interpretation administrators acquire discretion (Hawkins 1992). Legislation often does not speak directly to the varied and at times unanticipated circumstances that confront administrators.

Indeed, legislators may sometimes lack incentives for making laws clear or precise in the first place, as it can be to their electoral advantage to appear to have addressed vexing social problems, only in fact to have passed key tradeoffs along to unelected administrators. For some administrative tasks, particularly monitoring and enforcing laws, legislators give administrators explicit discretion over how to allocate their agencies' resources to pursue broad legislative goals.

Scholars disagree about how much discretion legislators ought to allow administrative agencies to exercise. Administrative minimalists emphasize the electoral accountability of the legislature, and conclude that any legislative delegations to agencies should be narrowly constructed (Lowi 1979). The expansionist view emphasizes most administrators' indirect accountability to an

elected executive and contends that legislatures themselves are not perfectly representative, especially when key decisions are delegated internally to committees and legislative staff (Mashaw 1985). While disagreement may persist over the amount of authority to be delegated to agencies, in practice administrative agencies will continue to possess considerable discretion, even under relatively restrictive delegations.

The study of administrative procedure takes it as given that agencies possess discretion. The aim is to identify procedures that encourage administrators to exercise their discretion in reasonable and responsive ways. A leading approach has been to design administrative procedures to promote interest group pluralism (Stewart 1975). Transparent procedures and opportunities for public input give organized interests an ability to represent themselves, and their constituencies, in the administrative process. Such procedures include those providing for open meetings, access to government information, hearings and opportunities for public comment, and the ability to petition the government. Open procedures are not only defended on the grounds of procedural fairness, but also because they force administrators to confront a wide array of interests before making decisions, thus broadening the political basis for administrative policy.These procedures may also protect against regulatory capture, a situation which occurs when an industry comes to control an agency in such a way as to yield private bene®ts to the industry .

A more recent analytic approach called `positive political economy' seeks to explain administrative procedures as efforts by elected officials to control agency outcomes (McCubbins et al. 1987). Administrative law, according to this approach, addresses the principal-agent problem confronting elected officials when they create agencies or delegate power to administrators. The problem is that administrators face incentives to implement statutes in ways not intended by the coalition that enacted the legislation.

It is difficult for legislators continually to monitor agencies and in any case the original legislators will not always remain in power. Analysts argue that elected officials create administrative procedures with the goal of entrenching the outcomes

desired by the original coalition. Such procedures can be imposed by the legislative as well as executive branch, and they include formal procedures for legislative review and veto, general requirements for transparency and interest group access, and requirements that agencies conduct economic analysis before reaching decisions.

Arecent area of empirical debate has emerged in the United States over which branch of government exerts most control over administrative agencies. The resulting evidence has so far been mixed, as might be expected, since most agencies operate in a complicated political environment in which they are subject to multiple institutional constraints. Indeed, the overall complexity of administrative politics and law presents a major challenge for social scientists seeking to identify the effects of specific kinds of procedures under varied conditions. The recent positive political economy approach advances a more nuanced analytical account of democratic accountability than the simple transmission belt' model of administrative law, but the ongoing challenge will be to identify with still greater precision which kinds of procedures, and combinations of procedures, advance the aims of democratic accountability as well as other important social values.

C. Coglianese

« If you want to live a happy life, tie it to a goal, not to people or objects. »

Albert einstein

Lesson 07:

Separation of Powers

he doctrine of Separation of Powers is of ancient origin. The history of The origin of the doctrine is traceable to Aristotle. In the 16th and 17th Centuries, French philosopher John Boding and British Politician Locke respectively had expounded the doctrine of separation of powers. But it was Montesquieu, French jurist, who for the first time gave it a systematic and scientific formulation in his book 'Esprit des Lois' (The spirit of the laws).

Montesquieu's view Montesquieu said that if the Executive and the Legislature are the same person or body of persons, there would be a danger of the Legislature enacting oppressive laws which the executive will administer to attain its own ends,

for laws to be enforced by the same body that enacts them result in arbitrary rule and makes the judge a legislator rather than an interpreter of law. If one person or body f persons could exercise both the executive and judicial powers in the same matter, there would be arbitrary powers, which would amount to complete tyranny, if the legislative power would be added to the power of that person. The value of the doctrine lies in the fact that it seeks to preserve human liberty by avoiding the concentration of powers in one person or body of persons. The different organs of government should thus be prevented from encroaching on the province of the other organ.

This theory has had different application in France, USA and England. In France, it resulted in the rejection of the power of the courts to review acts of the legislature or the executive. The existence of separate administrative courts to adjudicate disputes between the citizen and the administration owes its origin to the theory of separating of powers. The principle was categorically adopted in the making of the Constitution of the United States of America.

There, the executive power is vested in the president. Article the legislative power in congress and the judicial power in the Supreme Court and the courts subordinates thereto. The President is not a member of the Congress. He appoints his secretaries on the basis not of their party loyalty but loyalty to himself. His tenure does not depend upon the confidence of the Congress in him. He cannot be removed except by impeachment, However, the United States constitution makes departure from the theory of strict separation of powers in this that there is provision for judicial review and the supremacy of the ordinary courts over the administrative courts or tribunals.

In the British Constitution the Parliament is the Supreme legislative authority. At the same time, it has full control over the Executive. The harmony between the Legislator and the (Executive) is secured through the Cabinet. The Cabinet is collectively responsible to the Parliament. The Prime Minister is the head of the party in majority and is the Chief Executive authority. He forms the Cabinet. The Legislature and the Executive are not quite separate and independent in England, so far as the Judiciary is concerned its independence has been secured by the Act for

Settlement of 1701 which provides that the judges hold their office during good behaviour, and are liable to be removed on a presentation of addresses by both the Houses of Parliament. They enjoy complete immunity in regard to judicial acts.

In India, the executive is part of the legislature. The President is the head of the executive and acts on the advice of the Council of Ministers. Article 53 and 74 (1) He can be impeached by Parliament. Article 56 (1) (b) read with Art 61, Constitution. The Council of Ministers is collectively responsible to the Lok Sabha Article 75 (3) and each minister works during the pleasure of the President. Article 75 (2) If the Council of Ministers lose the confidence of the House, it has to resign. Functionally, the President's or the Governor's assent is required for all legislations. (Articles 111,200 and Art 368). The President or the Governor has power of making ordinances when both Houses of the legislature are not in session. (Articles 123 and 212). This is legislative power, and an ordinance has the same status as that of a law of the legislature. (AK Roy v Union of India AIR 1982 SC 710) The President or the Governor has the power to grant pardon (Articles 72 and 161) The legislature performs judicial function while committing for contempt those who defy its orders or commit breach of privilege (Articles 105 (3) 194 (3) Thus, the executive is dependent on the Legislature and while it performs some legislative functions such as subordinate it, also performs some executive functions such as those required for maintaining order in the house.

There is, however, considerable institutional separation between the judiciary and the other organs of the government.

The Judges of the Supreme Court are appointed by the President in consultation with the Chief justice of India and such of the judges of the supreme Court and the High Courts as he may deem necessary for the purpose.

The Judges of the High Court are appointed by the President after consultation with the Chief Justice of India, the Governor of the state, and, in the case of appointment of a judge other than the Chief justice, the Chief Justice of the High Court.

It has now been held that in making such appointments, the opinion of the Chief justice of India shall have primacy. (Supreme Court Advocates on Record Association.) The judges of the high Court and the judges of the Supreme Court cannot be removed except for misconduct or incapacity and unless an address supported by two thirds of the members and absolute majority of the total membership of the House is passed in each House of Parliament and presented to the President Article 124 (3) An impeachment motion was brought against a judge of the Supreme court, Justice Ramaswami, but it failed to receive the support of the prescribed number of members of Parliament. The salaries payable to the judges are provided in the Constitution or can be laid down by a law made by Parliament.

Every judge shall be entitled to such privileges and allowances and to such rights in respect of absence and pension, as may from time to time be determined by or under any law made by Parliament and until so determined, to such privileges, allowance and rights as are specified in the Second Schedule. Neither the privileges nor the allowance nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment.

Appointments of persons to be, and the posting and promotion of, district judges in any state shall be made by the Governor of the State in consultation with the High Court exercising jurisdiction in relation to such state .

The control over the subordinate courts is vested in the acts of the Legislature as well as the executive. The Supreme Court has power to make rules (Article 145) and exercises administrative control over its staff.

The judiciary has power to enforce and interpret laws and if they are found in violation of any provision of the Constitution, it can declare them unconstitutional and therefore, void. It can declare the executive action void if it is found against any provisions of the Constitution. Article 50 provides that the State shall take steps to separate the judiciary from the executive.

Thus, the three organs of the Government (i.e. the Executive, the Legislature and the Judiciary) are not separate. Actually the complete demarcation of the functions of these organs of the Government is not possible.

Lesson 08:

Administrative Adjudication And Administrative Tribunals

Chapter III of the Administrative Tribunal Act deals with the jurisdiction, powers and authority of the tribunals. Section 14(1) of the Act vests the Central Administrative.

Tribunal to exercise all the jurisdiction, powers and authority exercisable by all the courts except the Supreme Court of India under Article 136 of the Constitution. One of the main features of the Indian Constitution is judicial review. There is a hierarchy of courts for the enforcement of legal and constitutional rights. One can appeal against the decision of one court to another, like from District Court to the High Court and then finally to the Supreme Court, But there is no such hierarchy of Administrative Tribunals and regarding adjudication of service matters, one would

have a remedy only before one of the Tribunals. This is in contrast to the French system of administrative courts, where there is a hierarchy of dministrative courts and one can appeal from one administrative court to another. But in India, with regard to decisions of the Tribunals, one cannot appeal to an Appellate Tribunal. Though Supreme Court under Article 136, has jurisdiction over the decisions of the Tribunals, as a matter of right, no person can appeal to the Supreme Court. It is discretionary with the Supreme Court to grant or not to grant special leave to appeal.

The Administrative Tribunals have the authority to issue writs. In disposing of the cases, the Tribunal observes the canons, principles and norms of 'natural justice'. The Act provides that "a Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure 1908, but shall be guided by the principles of natural justice.

The Tribunal shall have power to regulate its own procedure including the fixing of the place and times of its enquiry and deciding whether to sit in public of private".

A Tribunal has the same jurisdiction, powers and authority, as those exercised by the High Court, in respect of "Contempt of itself" that is, punish for contempt, and for the purpose, the provisions of the contempt of Courts Act 1971 have been made applicable. This helps the Tribunals in ensuring that they are taken seriously and their orders are not ignored.

PROCEDURE FOR APPLICATION TO THE TRIBUNALS

the Administrative Tribunals Act prescribes for application to theTribunal. A person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal may make an application to it for redressal of grievance.

Such applications should be in the prescribed form and have to be accompanied by relevant documents and evidence and by such fee as may be prescribed by the Central Government but not exceeding one hundred rupees for filing the application. The Tribunal shall not ordinarily admit an application unless it is satisfied that the

applicant has availed of all remedies available to him under the relevant service rules.

This includes the making of any administrative appeal or representation. Since consideration of such appeals and representations involve delay, the applicant can make an application before the Tribunal, if a period of six months has expired after the representation was made no order has been made. But an application to theTribunal has to be made within one year from the date of final order or rejection of the application or appeal or where no final order of rejection has been made, within one year from the date of expiry of six months period. The Tribunal. May, however admit any application even after one year, if the applicant can satisfy the Tribunal that he/she had sufficient cause for not making the application within the normal stipulated time.

Every application is decided by the Tribunal or examination of documents, written representation and at a times depending on the case, on hearing of oral arguments.

The applicant may either appear in person or through a legal practitioner who will present the case before the Tribunal. The orders of the Tribunal are binding on both the parties and should be complied within the time prescribed in the order or within six months of the receipt of the order where no time limit has been indicated in the order. The parties can approach the Supreme Court against the orders of the Tribunal by way of appeal under Article 136 of the Constitution.

The Administrative Tribunals are not bound by the procedure laid down in the code of Civil Procedure 1908. They are guided by the principles of natural justice. Since these principles are flexible, adjustable according to the situation, they help the Tribunals in molding their procedure keeping in view the circumstances of a situation.

ADVANTAGES OF THE TRIBUNAL:

- **= Appropriate and effective justice.**
- **= Flexibility**
- **= Speedy**

•= Less expensive

LIMITATIONS OF THE TRIBUNALS:

•= The tribunal consists of members and heads that may not possess any background of law.

•= Tribunals do not rely on uniform precedence and hence may lead to arbitrary and inconsistent decision.

« Failure is simply the opportunity to begin again ,this time more intelligently . »

Henry ford

Exams and corrections

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (06p)

Administrative Tribunal	…… ……
The office clerk	…… ……
The parties	…… ……
The lawyer	…… ……
The inquiry	…… ……
The Pleading	…… ……

2- At the hearing, the parties have the right to : (03p)

1-……..…..……
2-…….
3-……

3- Continue the following table : (06p)

	English	Arabic Translation
Applications before the hearing	1-…….. 2-…….……	1-…… 2-…….……
Applications about the hearing	1-…….. 2-…….……	1-…… 2-…….……

4_Translate the following terms : (05p)

English	Arabic	Arabic	English
citizen	……	المدعى عليه	……
labour relations	……	دعوى قضائية	……
postponement	……	الشاهد	……

revocation	……	خبير	……
an oath	……	محامي	……

Your teacher : good luck

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : Administrative law

THE CORRECTION

1_ Give the definition of the following terms : **(01p× 6)**

Administrative Tribunal	are a type of tribunal. They were created to provide justice between citizens and the governm
The office clerk	is one of the employees of the office,he can carry out official functions .He can sign procedu make them legal
The parties	are the people in a case who have a conflict.The applicant and the respondent are parties.
The lawyer	a specialist who knows the law.She advises her clients and speaks for them at the tribunal.
The inquiry	is when the parties present their evidence to the decision-maker.
The Pleading	a person states what they think and why

2- At the hearing, the parties have the right to : (01p× 3)

_ to present evidence.

1. _ to examine and cross-examine the witnesses.
2. _ to discuss and defend their ideas.

3- Continue the following table : (01p× 4 +0.5p ×4)

	English	**Arabic Translation**
Applications before the hearing	• the applicant chose the wrong administrative tribunal • the tribunal does not have the right to handle the case • the application is not detailed enough • the application was made too late.	
Applications about the hearing	• changing the hearing date • changing where the hearing will be • changing the decision-maker • making witnesses leave the hearing room	

	• making the public leave the hearing room (closed hearing) • not letting the media publish what was said in the hearing .	

4_Translate the following terms : (0.5p ×10)

English	Arabic	Arabic	English
citizen	مواطن	المدعى عليه	Respondent
labour relations	علاقات العمل	دعوى قضائية	case ,application
postponement	تأجيل	الشاهد	witness
revocation	إلغاء , فسخ	خبير	Expert
an oath	اليمين , الحلف	محامي	lawyer

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (06p)

Administrative Tribunal	…… ……
The notice of hearing	…… ……
The parties	…… ……
The lawyer	…… ……
The application	…… ……
The Pleading	…… ……

2- Continue the following gaps : (02p)

A_ Even though the government pays the decision-makers, the decision-makers must make decisions that they think are ……..

B_ Decision-maker can leave to think about his decision, he can also leave to go and check the law.The time he takes is called ……..

C_ When the decision-maker does not take any time to think over his decision. And He makes his decision at the hearing.This is called making a decision ……

3_ Continue the following paragraph :

ترفع(الدعوى القضائية:.....) أمام (المحكمة الإدارية :.....) من طرف (المدعي : .....) ضد (المدعى عليه:.....) و يشكل كلاهما (أطراف القضية :.....) ليتم عقد (جلسة :.....) يترافع فيها الطرفين بتقديم (الأدلة :.....) و يحضر (الشهود: .....)بعد أداء (اليمين : .....) محاولةً منهم(اقناع :.....) (صانع القرار :.....).

Your teacher : good luck

Mohammed kheidher university of biskra
Module : English Language
Speciality : Administrative law

THE CORRECTION

Answer the following questions :

1_ Give the definition of the following terms : **(04p)**

Administrative Law	Administrative law refers to the body of laws, procedures,and legal institutions affe government agencies as they implement legislation and administer public programs.
Disciplinary Action	means the administrative steps taken to correct the misbehaviour of the employee in relatio the performance of his/her job.

2__ Administrative law governs agency decisions to give some decisions .

Give six (06) decisions of them. (03p)

- grant licenses, -administer benefits, -conduct investigations,- enforce laws, -impose sanctions, -award government contracts, -collect information, -hire employees, and -make still further rules and regulations.

3_Corrective action is initiated to(goals, aims) (03p):

1_ prevent the deterioration of the employee job.
2_ prevent the deterioration of individual inefficiency .
3_ ensure that deterioration does not spread to other employees.

4_ Give five(05) causes of disciplinary action which amounting to crimes (05p)

1. Embezzlement
2. Falsification of accounts not amounting to misappropriation of money.
3. Fraudulent claims
4. Forgery of documents
5. Theft of Government property
6. Defrauding Government
7. Bribery
8. Corruption
9. Possession of disproportionate assets

10. Offences against other laws applicable to Government Servants.

5_Translate the following terms : (05p)

English	Arabic	Arabic	English
Appeal	استئناف	الفساد	**corruption**
Punishment	عقوبة	المخالفة(اهانة)	**……**
Theft	سرقة	الرشوة	Bribery
Censure		الاختلاس	Embezzlement
Disobedienc	عصيان, تمرد	الملكية	**……**

Your teacher : good luck

2_What are the different parts of Administrative law ? (0.5 p × 4)

Administrative law, as a body of law, is part constitutional Law, part statutory law, part internal policy, and, in some systems, part common law.

3_Give four (04) indicators of good governance and translate them . (04p)

Participation ⟶ المشاركة	Responsiveness ⟶ الاستجابة
Transparency ⟶ الشفافية	Accountability ⟶ المحاسبة
Consensus Oriented ⟶ الاجماع الموجه	Fairness ⟶ الوضوح
Equity ⟶ المساواة	Efficiency ⟶ الفعالية

4_ what is the difference between Decision Making and Decision Taken? (02 p)

Decision Taken is a step from Decision Making operation

5_Corrective action is initiated to(goals, aims) (03p):

4_ Corrective action aims to : (03p)

6_Give four (04) causes of disciplinary proceedings (acts amounting to crimes)(2p):

7_Translate the following terms : (03p)

English	Arabic	Arabic	English
Good Governance	الحكم الراشد(الرشيد)	الفساد	Corruption
Disobedience	العصيان , تمرد	الاختلاس	Embezzlemen
Bribery	الرشوة	الموظف	Employee

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : **(04p)**

Administrative Law	…… …… ……
Disciplinary Action	…… …… ……

2__ Administrative law governs agency decisions to give some decisions .

Give six (06) decisions of them. (03p)

……..……...……
…..…
……
……
…….....
.....

3_Corrective action is initiated to(goals, aims) (03p): …….
……
……
…….
……

4_ Give five(05) causes of disciplinary action which amounting to crimes (05p)

……...…...……
……
……

……..……..
……..……
……

5_Translate the following terms : (05p)

English	Arabic	Arabic	English
Appeal	……	الفساد	……
Punishment	……	المخالفة(اهانة)	……
Theft	……	الرشوة	……
Censure	……	الاختلاس	……
Disobedienc	……	الملكية	……

Your teacher : good luck

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality :Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (10p)

Administrative Tribunal	Administrative tribunals are a type of tribunal.They were created to provide ju between citizens and the government
Tribunal	settle the conflicts of people who cannot agree with each other using negotiati mediation
The Office Clerk	is one of the employees of the office,he can carry out official functions .He can procedures to make them legal
Summons to Appear	is a paper ordering a person to go before a tribunal to testify. This paper tells you the place, date and time of the hearing. It is also cal **subpoena.**
The Notice of Hearing	**hearing** is a paper sent to the people in a case. This paper tells them the place, and time of the hearing.

2_Translate the following terms : (05p)

Disciplinary Action	……..	الدفاع	……..
Conflicts	……..	الاستئناف	……..
Evidence	……..	فرصة	……..
Employee	……..	العقوبة	……..
Interest	……..	إقليم	……..

3_ There are various problems concering the disciplinary proceedings.Give three (03) of them without explanation (03p)

1) Lack of knowledge of the Disciplinary Procedure
2) Delays
3) Lack of fair Play
4) Withholding of Appeal
5) Inconsistency

4_ Even though the government pays the decision-makers, the decision-makers must make decisions that they think are (02p)
are right, without being scared of losing their job.

Your teacher : good luck

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality :Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (04p)

Administrative Law	…… …… ……
Disciplinary Action	…… …… ……

2_ What are the different parts of Administrative law ? (02p)
Administrative law,as a body of law is part**…… …..…… ..…**
……
……

3_Give four (04) indicators of good governance and translate them . (04p)
……
……
……
……

4_ what is the difference between Decision Making and Decision Taken? (02 p)
……
……

5_Corrective action is initiated to(goals, aims) (03p):
……
……
……

6_Give five (04) causes of disciplinary proceedings (acts amounting to crimes)(2p):

……
……
……

7_Translate the following terms : (03p)

English	Arabic	Arabic	English
Good Governance	……	الفساد	……
Disobedience	……	الاختلاس	……
Bribery	……	الموظف	……

Your teacher : good luck

Mohammed kheidher university of biskra
Module : English Language
Speciality : Administrative law

THE CORRECTION

Answer the following questions :

1_ Give the definition of the following terms : (04p)

Administrative Law	Administrative law refers to the body of laws, procedures,and legal institutions aff government agencies as they implement legislation and administer public programs.
Disciplinary Action	means the administrative steps taken to correct the misbehaviour of the employee in relatio the performance of his/her job.

2_What are the different parts of Administrative law ? (0.5 p × 4)

Administrative law, as a body of law, is part constitutional Law, part statutory law, part internal policy, and, in some systems, part common law.

3_Give four (04) indicators of good governance and translate them . (04p)

Participation ⟶ المشاركة	Responsiveness ⟶ الاستجابة
Transparency ⟶ الشفافية	Accountability ⟶ المحاسبة
Consensus Oriented ⟶ الاجماع الموجه	Fairness ⟶ الوضوح
Equity ⟶ المساواة	Efficiency ⟶ الفعالية

4_ what is the difference between Decision Making and Decision Taken? (02 p) Decision Taken is a step from Decision Making operation

5_Corrective action is initiated to(goals, aims) (03p):

4_ Corrective action aims to : (03p)

1_ prevent the deterioration of the employee job.

2_ prevent the deterioration of individual inefficiency .

3_ ensure that deterioration does not spread to other employees.

6_Give four (04) causes of disciplinary proceedings (acts amounting to crimes)(2p):

1. Embezzlement
2. Falsification of accounts not amounting to misappropriation of money.

3. Fraudulent claims
4. Forgery of documents
5. Theft of Government property
6. Defrauding Government
7. Bribery
8. Corruption
9. Possession of disproportionate assets
10. Offences against other laws applicable to Government Servants.

7_Translate the following terms : (03p)

English	Arabic	Arabic	English
Good Governance	الحكم الراشد(الرشيد)	الفساد	Corruption
Disobedience	العصيان , تمرد	الاختلاس	Embezzlemen
Bribery	الرشوة	الموظف	Employee

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality :Administrative law

THE QUESTIONS

Answer the following questions :

I_ 1_ Give the definition of the following terms : (04p)

Administrative Law	…… …… ……
Administrative Reform	…… …… ……

II_ 1_ Administrative law governs agency decisions to give some decisions . Give six (06) decisions of them. (03p)

……
……
……

2_What are the different parts of Administrative law ? (02p)

Administrative law,as a body of law is part…… ……
……
……
……

3_ Administrative law of necessity confronts central question of political theory. What is it ? (02p)

……
……

4_ The Study Of Administrative Law Is Characterized In Part By Prescriptive Efforts To Design Rules That Better Promote Democratic And Other Values.

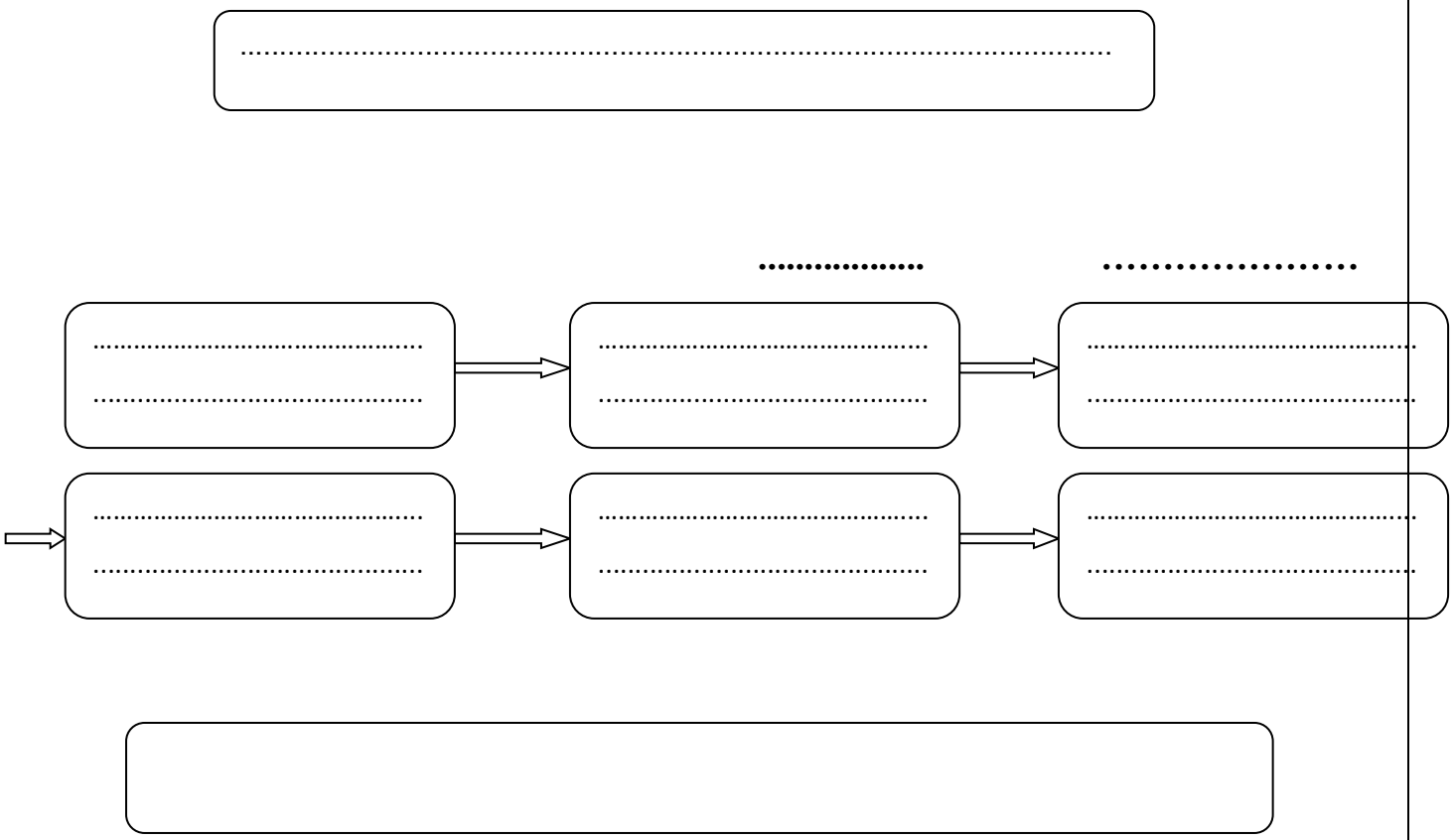
A_What Are The Most Important Values ? (Six « 06 » Values) . (03p)

……
……
……

B_Explain Two (02) Of Them . (02p)

……
……
……
……

IV_ Continue the following planning : (04 p)



Your teacher : good luck

Mohammed kheidher university of biskra
Module : English Language
Speciality : Administrative law
Level :Master 1

THE CORRECTION

I_ 1_ Give the definition of the following terms : (02p × 2)

Administrative Law	Administrative law refers to the body of laws, procedures,and legal institu affecting government agencies as they implement legislation and administer p programs.
Administrative Reform	the removal of abuses in politics, or make better by removal or abandonment imperfections and faults or errors.

II_ 1_ Administrative law governs agency decisions to give some decisions .

Give six (06) decisions of them. (0.5 p ×6)

1- Grant licenses,2- administer benefits,3- conduct investigations,

4-enforce laws,5-impose sanctions,6- award government contracts,

7- collect information,8- hire employees ,9- make rules and regulations.

2_What are the different parts of Administrative law ? (0.5 p × 4)

Administrative law, as a body of law, is part constitutional Law, part statutory law, part internal policy, and, in some systems, part common law.

3_ Administrative law of necessity confronts central question of political theory.

What is it ? (02p)

administrative law of necessity confronts central questions of political theory, particularly the challenge of reconciling decision-making by unelected administrators with democratic principles.

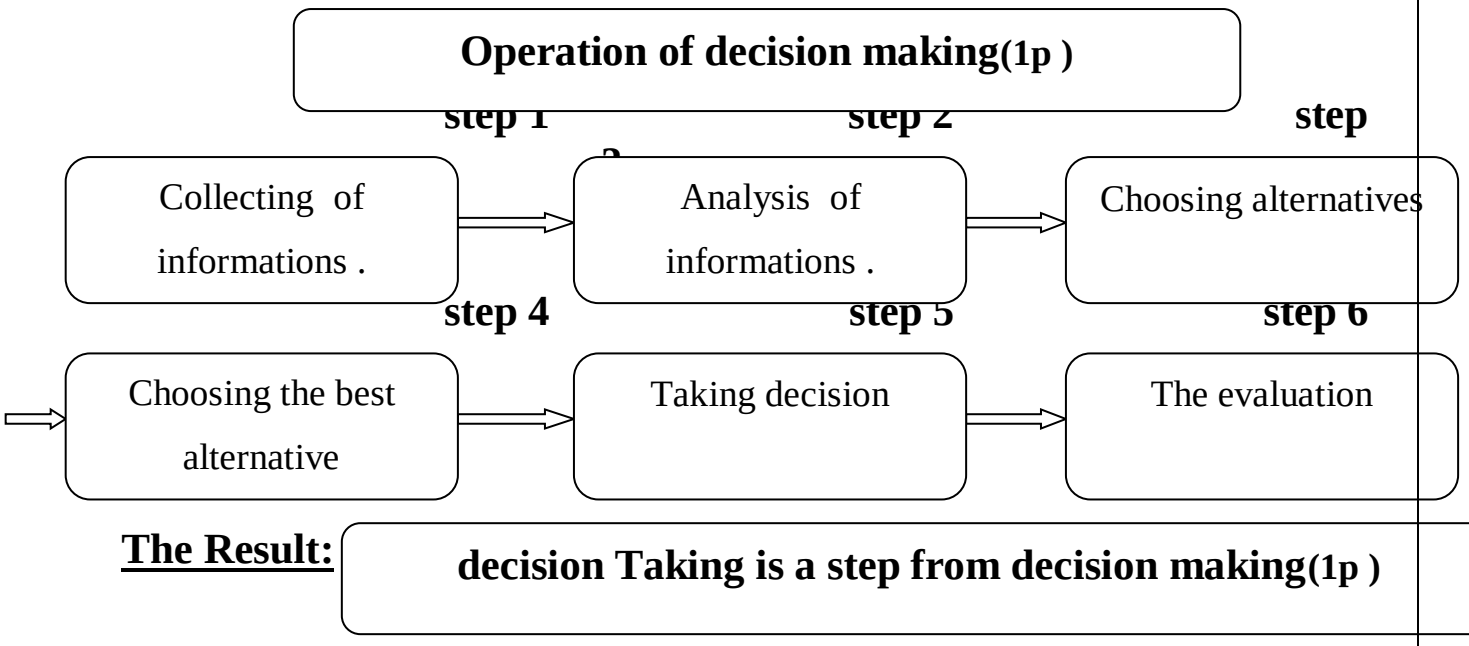
4_ The Study Of Administrative Law Is Characterized In Part By Prescriptive Efforts To Design Rules That Better Promote Democratic And Other Values.

A_What Are The Most Important Values ? (Six « 06 » Values) . (0.5p×6)

fairness, effectiveness, efficiency,Participation,Transparency,Rule of law Responsiveness, goals oriented, Accountability, Equity .

B_Explain Two (02) Of Them . (01p × 2)

III _ Continue the following planning : (04 p)



The Result: **decision Taking is a step from decision making(1p)**

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality :Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (04p)

Application to Tribunal	…… …… ……
Disciplinary Action	…… …… ……

2_In India the administrative Tribunal observes the(1.5p)
……..……..……
……

3_Translate the following terms : (04p)

Appellate Tribunal	……..	Nepotism	……
the applicant	……..	Favoritism	……
Jurisdiction	……..	Hierarchy	……
judicial review	……..	Inconsistent	……

4_ Corrective action aims to : (03p)
1_ ……..……
2_…….
3_ ……..……

5_ Give six(06) causes of disciplinary action which <u>amounting to crimes and translate them</u> (06p)
……
…...…...……
……
……
…….……..……
……

6_Translate the following lyrics: (1.5p)

My best times were when I felt close to you **** In each smile in every single sigh

…… ……..

Your teacher : good luck

Mohammed kheidher university of biskra
Module : English Language
Speciality : Administrative law

THE CORRECTION

1_ Give the definition of the following terms : (04p)

Application to Tribunal	A person aggrieved by any order pertaining to any matter within the jurisdicti the Tribunal may make an application to it for redressal of grievance.
Disciplinary Action	The administrative steps taken to correct the misbehaviour of the employ relation to the performance of his/her job.

2_In India the administrative Tribunal observes the(1.5p)

1_ the canons.2_ principles and norms of 'natural justice'.

3_Translate the following terms : (04p)

Appellate Tribunal	محكمة الاستئناف	Nepotism	المحاباة (الأقارب)
the applicant	رافع الدعوى, الملتمس, الطالب	Favoritism	المحسوبية
Jurisdiction	التقاضي	Hierarchy	تدرج , هرمية , التراتبية
judicial review	المراجعة القضائية	Inconsistent	التضارب , التناقض

4_ Corrective action aims to : (03p)

1_ prevent the deterioration of the employee job.
2_ prevent the deterioration of individual inefficiency .
3_ ensure that deterioration does not spread to other employees.

5_ Give six(06) causes of disciplinary action which amounting to crimes and translate them (06p)

11. Embezzlement الاختلاس
12. Falsification of accounts not amounting to misappropriation of money.
13. Fraudulent claims
14. Forgery of documents
15. Theft of Government property
16. Defrauding Government
17. Bribery الرشوة
18. Corruption الفساد
19. Possession of disproportionate assets
20. Offences against other laws applicable to Government Servants.

6_Translate the following lyrics: (1.5p)

My best times were when I felt close to you **** In each smile in every single sigh
أوقات عندما احسست قريبا منك في كل ابتسامة في كل تنهد (نفس) أحسن

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality :Administrative law

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms :

Disciplinary Action	…… …… …… .....

4_ Corrective action aims to :
1_ ……
2_……
3_ ……

2_ the penalties that are imposed on a member of the service are ……
A_……
...……
……
……
B_……
……
……
……
……

3_ what are the various problems concerning the disciplinary proceedings ?
……
……..……

……..……
……..……
……..……
……
……..……

Your teacher : good luck

Part 2 :

International Law and Human Rights Speciality

Lesson 10 :

International Law : Definition and Types

I_Definition of International Law : Basically defined, international law is simply

International Law: the set of rules that countries follow in dealing with each other.

OR International law is the universal system of rules and principles concerning the relations between sovereign States, and relations between States and international organisations such as the United Nations. Although international law is mostly made between States or in international law, a in relation to States, its effects are broader and can also affect other entities. [32]

II_ Types of International Law : There are three distinct legal processes that can be indentified in International Law that include

1_Public International Law

Public international law: deals mostly with the rights and responsibilities that countries have toward each other.

In international law, countries are usually referred to as "states." Public international law also applies to international organizations such as the United Nations (UN) and the World Trade Organization (WTO).

[32] Hot Topicsm legal Issues in plain language , state library of new south wales ,2009 , p 01.

Public international law sets the rules for issues that concern all humankind: the environment, the oceans, human rights, international business, etc. Various international bodies enforce these rules. For example, the International Criminal Court investigates and hears cases of people accused of war crimes or crimes against humanity. This court applies "international criminal law."

The rules of international law are found in treaties, conventions, declarations, agreements, customs and other sources. For example, **the Kyoto Protocol** is an international agreement on climate change. In this protocol, many countries have agreed to reduce their greenhouse gas emissions in order to protect the environment.

Another example is the Convention on **the Rights of the Child**. Countries that have signed this convention must respect the rights it gives to children and make sure these rights are made known and protected.

This brings us to a very important principal in international law: **the sovereignty** of states. This means that a country is free to accept or refuse to sign an international treaty

or agreement. Other countries can put political or economic pressure on a country to sign the treaty, but they can't force it to sign the treaty.

2_ Private International Law :

Private international law: deals with relationships between citizens of different countries.

For example, an American man and a French woman were married in France and now live in Quebec. If they want to divorce, the rules of private international law will determine whether they have to go to a US, French or Quebec court to get their divorce.

Private international law also applies to business. Globalization and the Internet mean that companies are doing more business in other countries. For example, if you run into a problem when buying something online from an American company and you want to sue, the rules of private international law will apply.

3_ Supranational Law : Supranational law differs from international law. In the case of supranational law a set of Member States (MSs) have agreed to transfer parts of their sovereignty to a supranational organization. In practice, supranational law refers to the law of the European Union. Supranational law is not merely law between MSs (as in international law) but also law between the bodies of the EU and the citizens of the MS, who are at the same time EU citizens.

Some of the legal instruments of the EU have 'direct effect' for EU citizens, and due to the supranational nature of the EU jurisdiction, this 'direct effect' does not depend on whether a MS takes a monist or a dualist approach to international law.

« Don't compare youself with anyone in this world …if you do so, you are insulting yourself »

Bill gates

Lesson 11 :

Who Are the Various Actors in International Law?

Traditionally, international law dealt only with the relations between states, and states were the only creators and subjects of the law. Today that has changed, with new actors joining states as both creators and subjects.

1-States :

States play the central and undisputed leading role in the creation of international law. However, the determination of whether an entity is actually a State can present a challenge. Generally speaking, most sovereign states are both states (in law) as well as (in reality). The generally agreed upon criteria for statehood are:

- Possesses a defined territory
- Inhabited by permanent population
- Controlled by an independent government
- Engages in formal relations with other states

2-International Organizations :

International organizations, otherwise known as intergovernmental organizations, or IGOs, are formed between two or more state governments. Some IGOs operate by making decisions on the basis of one vote for each member-state, some make decisions on a consensus or unanimity basis, while still others have weighted voting structures based on security interests or monetary donations.

In the General Assembly of UN, each state has one vote, while in the Security Council, five states are permanent members and have a veto over any action. The

World Bank arranges its voting according to the Member State's shareholding status, which is roughly based on the size of the state's economy. [33]

This is often thought of as the "one dollar = one vote" approach to representation.

There are nearly 2,000 international organizations that deal with a wide variety of topics requiring international cooperation, such as the International Civil Aviation Organization, the Universal Postal Union, the International Organization for Standardization, and the International Organization for Migration .

3-Non-Governmental Organizations :

Non-governmental organizations (NGOs), also called "civil society" organizations, are groups formed by individuals working across national borders to affect public policy. Recent progress in technology, coupled with globalization's emphasis on international cooperation, has allowed the effectiveness of these organizations to grow drastically. Individuals living in different countries can now network with one another, and the Internet has permitted NGOs to both obtain and publish information on an extensive level, previously only available to states.

NGOs have had significant impact on environmental affairs, such as Greenpeace's advocacy work on climate change, Amnesty International's advocacy of human rights, and the International Campaign to Ban Landmines, which won a Nobel Peace Prize for its work in shaping a global treaty to prohibit use of landmines.

However, as the influence of NGOs has grown, more questions are being raised regarding their accountability. Essentially, NGOs are special-interest groups on an international scale, which means that they are unelected and unaccountable to any public oversight, even though they claim to speak for the "public" as a whole. Failure to deliver adequate or promised results, coupled with little to no structural oversight has proven to be a large obstacle, which many NGO's still currently face scrutiny.

4-Individuals :

The position of individuals under international law has evolved significantly

[33] Globalization101.org International Law and Organizations , a project of suny levin institute ,[W.E.P], [W.E.Y],P 08.

during the last century. Now, more than ever,under international law individuals are being given more rights and being held responsible for their actions. Human rights law, for example, has tried to establish that every person around the world has certain basic rights that cannot be violated.

At the same time, individual accountability under international law has been established, first at the Nuremburg trials and recently at the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda and the dawn of the International Criminal Court, the first permanent international institution to hold individuals responsible for violations of the laws of armed conflict.

This issue of individual accountability in the international system can be seen with the actions carried out in June 2011, when the International Criminal Court (ICC) issued an arrest warrant for Libyan dictator Moammar Gadhafi for "Crimes against humanity" that were purportedly carried out while trying to quash a growing rebellion within the Libyan Borders (NPR, 2011). However, Gaddafi was eventually captured by National Transitional Council forces and subject to extra-judicial killing along with his son and close advisors in October 2011 (Greenhill, 2011).

5-Transnational Corporations :

Transnational corporations (TNCs), also sometimes called multinational corporations (MNCs), also are playing an increased role in the development of international law. TNCs are commercial entities whose interests are profit-driven. Transnational corporations lobby states and international organizations in a manner similar to NGOs, with the hopes of having their interests protected under international law. Many of the same doubts related to NGO accountability and legitimacy can also be raised in the context of TNCs.[34]

For these reasons, the UN has sought both to regulate and to work with TNCs. At the Millennium Forum in May 2000, a proposal was put forth to regulate TNCs. A Draft Code of Conduct on TNCs was reviewed and debated by various UN bodies

[34] Globalization101.org International Law and Organizations , Op.Cit **,pp 09 _10 .**

for years, with no results. TNCs also have been sued in U.S. courts for violating international law in the way they affect the human rights of people in countries where they operate.

In 2005, in another attempt to regulate a code of conduct for transnational corporations, former UN Secretary General Kofi Annan appointed John Ruggie as the UN Special Representative for Business and Human Rights. In 2008, Ruggie created the concept of "Protect, Respect, and Remedy," which was presented in concrete form in 2011 and became known as the "UN Guiding Principles on Business and Human Rights." The Human Rights Council unanimously endorsed these principles and quickly established a group to focus on their implementation (The Kenan Institute, 2012). The group first met in Geneva, Switzerland in December 2012, and found that much progress had been made in recent years (United Nations, 2012).

« If you want to live a happy life, tie it to a goal, not to people or objects. »

Albert einstein

Lesson 12 :

What Are the Sources of International Law?

Since there is no world government , there is no world Congress or parliament to make international law the way domestic legislatures create laws for one country. As such, there can be significant difficulty in establishing exactly what international law is. Various sources, however—principally treaties between states—are considered authoritative statements of international law.

Treaties are the strongest and most binding type because they represent consensual agreements between the countries who sign them. At the same time, as stated in the statute of the International Court of Justice (ICJ), rules of international law can be found in customary state practice, general principles of law common to many countries, domestic judicial decisions, and the legal scholarship.

1 Treaties:

Treaties are similar to contracts between countries; promises between States are exchanged, finalized in writing, and signed.

States may debate the interpretation or implementation of a treaty, but the written provisions of a treaty are binding. Treaties can address any number of fields, such as trade relations, like the North American Free Trade Agreement or control of nuclear weapons, such as the Nuclear Non-Proliferation Treaty. They can be either bilateral (between two countries) or multilateral (between many countries). They can have their own rules for enforcement, such as arbitration, or refer enforcement concerns to another agency, such as the International Court of Justice. The rules concerning how to decide disputes relating to treaties are even found in a treaty themselves—the Vienna Convention on the Law of Treaties (United Nations, 1969).

2 Custom:

Customary international law is developed through "a general and consistent practice of states followed by them from a sense of legal obligation."10 A rule or principle of customary international law must fulfill two separate elements: (a) be general and widespread among states and (b) be accepted as law or arise out of a sense of legal obligation to follow that practice (known as opinio juris sive necessitatus)." Essentially, customary international law placesbinding obligations on states based on their consistent patterns of behavior if the practices arise from legal obligation rather than convenience or courtesy.

Customary international law only binds the states that adhere to the pattern of behavior. If a state denounces or dissents from a norm (or becomes a "persistent objector", it is typically immunized from legal obligation.

There are some international norms so fundamental, however, that they permit no derogation. This concept, known as jus cogens, or peremptory norms, encompasses a limited set of rights—such as the prohibitions on genocide, torture, piracy, and slavery—that most members of the international community have agreed to follow.[35]

Customary international law (CIL) is more difficult to ascertain than the provisions of a written treaty. CIL is created by the actual actions of states (called "state practice") when they demonstrate that those states believe that acting otherwise would be illegal. Even if the rule of CIL is not written down, it still binds states, requiring them to follow it .

For example, for thousands of years, countries have given protection to ambassadors. As far back as ancient Greece and Rome, ambassadors from another country were not harmed while on their diplomatic missions, even if they represented a country at war with the country they were located in. Throughout history, many countries have publicly stated that they believe that ambassadors

[35] Doug Tedeschi and M. Erin Rodgers, A Guide To The Basics Of International Law, University Law Center , Georgetown, 2019 , pp 02 ,03.

should be given this protection. Therefore, today, if a country harmed an ambassador it would be violating customary international law.

Similarly, throughout modern history, states have acknowledged through their actions and their statements that intentionally killing civilians during wartime is illegal in international law. Determining CIL is difficult, however, because, unlike a treaty, it is not written down. Some rules are so widely practiced and acknowledged by many states to be law, that there is little doubt that CIL exists regarding them , but other rules are not as universally recognized and disputes exists about whether they are truly CIL or not.

3 General Principles of Law:

The third source of international law is based on the theory of "natural law," which argues that laws are a reflection of the instinctual belief that some acts are right while other acts are wrong. "The general principles of law recognized by civilized nations" are certain legal beliefs and practices that are common to all developed legal systems (United Nations, 1945).

For instance, most legal systems value "Good Faith," that is, the concept that everyone intends to comply with agreements they make. Courts in many countries will examine whether the parties to a case acted in good faith, and take this issue into consideration when deciding a matter.

The very fact that many different countries take good faith into consideration in their domestic judicial systems indicates that "Good Faith" may be considered a standard of international law. General principles are most useful as sources of law when no treaty or CIL has conclusively addressed an issue.

4 Judicial Decisions :

The last two sources of international law are considered "subsidiary means for the determination of rules of law." While these sources are not by themselves international law, when coupled with evidence of international custom or general principles of law, they may help to prove the existence of a particular rule of international law.

Especially influential are judicial decisions, both of the International Court of Justice (ICJ) and of national courts. The ICJ, as the principal legal body of the Untied Nations, is considered an authoritative expounder of law, and when the national courts of many countries begin accepting a certain principle as legal justification, this may signal a developing acceptance of that principle on a wide basis such that it may be considered part of international law.

5 Legal scholarship : on the other hand, is not really authoritative in itself, but may describe rules of law that are widely followed around the world.

Thus, articles and books by law professors can be consulted to find out what international law is.

« Failure is simply the opportunity to begin again ,this time more intelligently . »

Henry ford

Lesson 13 :

What Does International Law Address?

International law has developed certain areas of practice, guided by their own principles, documents, and institutions. Even though these areas of expertise can stand alone, to a certain extent, boundaries drawn in international law are arbitrary because the underlying principles of each field both inform and compete with one another.

International issues also do not often fit neatly into a single category. The following sections of this Issue Brief address some of the major areas addressed by international law.

1-Law of Armed Conflict :

The law of armed conflict (also called the "law of war") can be divided into two categories. The first concerns the legitimate reasons for starting a war. The laws during war (Justice in War), are also called international humanitarian law.

2-International Economic Law :

International law governs a diverse mixture of economic and commercial matters, such as trade, monetary policy, development, intellectual property rights, and investment. This area of international law reaches broadly enough to encompass topics ranging from international transactions by private parties to agreements between states to regulate their trade activities. The General Agreement on Tariffs and Trade (GATT) that governs international trade is the most important treaty in this area; it is administered by the World Trade Organization.

3-International Human Rights Law :

International human rights law is different from most areas of international law because, rather than governing relations between states, human rights law governs a state's relations with its own citizens.

Subsequently, the creators of the UN recognized the reaffirmation of fundamental human rights as one of its most important purposes, and in the first year of its existence, set out to ensure that goal. The first step took place when The Human Rights Commission—at the time the lead UN body of human rights--produced the **"International Bill of Human Rights,"** which is composed of the Universal Declaration of Human Rights and two binding treaties, the International Convention on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

On March 15, 2006, recognizing the need to update its human rights organizations, the General Assembly of the UN created the Human Rights Council. This new body is responsible for further strengthening and promoting human rights around the world.

One of the Council's many tools for protecting human rights is **The Innovative Universal Periodic Review**, which allows for the examination of the status of human rights within all member states.

A sophisticated system of agreements and monitoring organizations exists to promote respect for the rights enshrined in these documents, both on international and regional levels, as with the European Convention on Human Rights and its Court of Human Rights, and the American Declaration and American Convention on Human Rights and their Inter-American Commission and Inter-American Court on Human Rights.

4-International Environmental Law :

Environmental law revolves around a core theory that the earth has limited resources that must be jointly enjoyed and cared for, regardless of their physical presence in the territory of one state as opposed to another. Environmental law attempts to bring states into agreement on issues such as desertification, sustainable development, biodiversity, endangered species, hazardous materials, climate change, and trans-boundary pollution, all of which have been the subject of major international treaties, such as the United Nations Convention on Biological Diversity

(CBD), the United Nations Convention to Combat Desertification, and the Convention on International Trade in Endangered Species. [36]

« Success is going from failure to failure without losing your enthusiasm. » W.churchill

[36] Globalization101.org International Law and Organizations , Op.Cit **,pp 07 _08.**

Exams and corrections

Mohammed Kheidher University Of Biskra
Module : English Language

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (05p)

Treaties	……
Good Faith	……
Custom	……
International Human Rights Law	……
General Principles of Law	……

2- Continue the following table : (06p)

Abbreviation	English Detail (words)	Arabic Detail (words)
(ICJ)	……	……
(CIL)	……	……
(ICJ)	……	……
(ICCPR)	……	……
(ICESCR)	……	……
(GATT)	……	……

3_ continue the following gaps : (04p)

A- The General Assembly of the UN created…….. This new body is responsible for ……
One of **the Council's** many tools for protecting human rights is ……
which allows for the ……

B- Treaties are the strongest and most binding type because ……
……

4_Translate the following terms : (05p)

English	Arabic	Arabic	English
the World Trade Organization	……	التنمية المستدامة	……
the Nuclear Non-Proliferation	……	تغير المناخ	……
Combat Desertification	……	التنوع البيولوجي	……
General Principles of Law	……	القانون الدولي الانساني	……

Legal scholarship	…….	السفير	…….

Your teacher : Good Luck

Mohammed Kheidher University Of Biskra
Module : English Language
International Law and Human Rights

THE CORRECTION

Answer the following questions :

1_ Give the definition of the following terms : **(01p× 5)**

Treaties	Treaties are similar to contracts between countries; promises between States are exchanged, finalized in writing, and signed.
Good Faith	the concept that everyone intends to comply with agreements they make.
Custom	is created by the actual actions of states (called "state practice")
International Human Rights Law	human rights law governs a state's relations with its own citizens.
General Principles of Law	is based on the theory of "natural law," which argues that laws are a reflection of the instinct belief that some acts are right while other acts are wrong

2- Continue the following table : (0.5p ×6 +0.5p ×6)

Abbreviation	English Detail (words)	Arabic Detail (words)
(ICJ)	the International Court of Justice	محكمة العدل الدولية
(CIL)	Customary international law	القانون الدولي العرفي
(ICCPR)	the International Convention on Civil and Political Rights	الاتفاقية الدولية للحقوق المدنية و السياسية
(ICESCR)	the International Covenant on Economic, Social and Cultural Rights	الاتفاقية الدولية للحقوق الاقتصادية و الاجتماعية و الثقافية
(GATT)	The General Agreement on Tariffs and Trade	الاتفاقية العامة للتعريفة الجمركية و التجارة

3_ continue the following gaps : (04p)

A- The General Assembly of the UN created the Human Rights Council This new body is responsible for strengthening and promoting human rights around the world. One of **the Council's** many tools for protecting human rights is The Innovative Universal Periodic Review which allows for the examination of the status of human rights within all member states. **(0.75 p × 4)**

B- Treaties are the strongest and most binding type because they represent consensual agreements between the countries who sign them**(01p)**

4_Translate the following terms : (0.5p× 10)

English	Arabic	Arabic	English
the World Trade Organization	منظمة التجارة العالمية	التنمية المستدامة	sustainable development
the Nuclear Non-Proliferation	عدم الانتشار النووي	تغير المناخ	climate change
Combat Desertification	مكافحة التصحر	التنوع البيولوجي	Biological Diversity
General Principles of Law	المبادئ العامة للقانون	القانون الدولي الانساني	international humanitarian law

Legal scholarship	الفقه القانوني	السفير	ambassador

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : International Law and Human Rights

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (05p)

Treaties	……
Good Faith	……
Custom	……
International Human Rights Law	……
General Principles of Law	……

2_ continue the following table:

The Source	Examples
Treaties	……
Custom	……
General Principles of Law	……

3_ continue the following gaps : (04p)

A- The General Assembly of the UN created…….……. This new body is responsible for ……
One of **the Council's** many tools for protecting human rights is ……
……., which allows for the ……..…

B- Treaties are the strongest and most binding type because ……
……

4_Translate the following terms : (05p)

English	Arabic	Arabic	English
the World Trade Organization	…….	التنمية المستدامة	…….
the Nuclear Non-Proliferation	…….	تغير المناخ	…….
Combat Desertification	…….	التنوع البيولوجي	…….
General Principles of Law	…….	القانون الدولي الانساني	…….
Legal scholarship	…….	السفير	…….

Your teacher : Good Luck

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : International Law and Human Rights

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms :

International Law	…… ……
Private International Law	…… ……
Public international law	…… ……
The Sovereignty	…… ……

2_ continue following :

Public international law sets the rules for <u>issues that concern</u> all humankind(areas)
……
……
The International Criminal Court……
……
This court applies "…….. law."

3_The rules of international law are found in
1_ ……
2_……
3_ ……
4_ ……

3_ States play the central and undisputed leading role in the creation of international law.The generally agreed upon criteria for statehood are:(conditions)
1_ ……
2_……
3_ ……
4_ ……

4_ Continue the following table :

	Advocacy
Greenpeace	……
Amnesty International's	……
the International Campaign to	…… ……

Ban Landmines	

Your teacher : Good Luck

Mohammed Kheidher University Of Biskra
Module : English Language
International Law and Human Rights

THE CORRECTION

Answer the following questions :

1_ Give the definition of the following terms : **(03p)**

International Organizations	are formed between two or more state governments**(01p)**
Non-Governmental Organizations	groups formed by individuals working across national borders to affect public policy**(**
the sovereignty	a country is free to accept or refuse to sign an international treaty or agreement**(01p)**

2_ What are the types of International Law ? (with explanation) (06p)

1_ Public international law:deals mostly with the rights and responsibilities that countries have toward each other **(02p)**

2_ Private international law :deals with relationships between citizens of different countries. **(02p)**

3_ Supranational law: differs from international law. In the case of supranational law a set of Member States (MSs) have agreed to transfer parts of their sovereignty to a supranational organization. **(02p)**

3_ States play the central and undisputed leading role in the creation of international law.The generally agreed upon criteria for statehood are:(conditions) (06p)

1_Possesses a defined territory**(1.5 p)**
2_ Inhabited by permanent population**(1.5 p)**
3_ Controlled by an independent government**(1.5 p)**
4_ Engages in formal relations with other states**(1.5 p)**

4_ continue following : (01p × 2)

A_ The Kyoto Protocol is**(01p)**

is an international agreement on climate change. In this protocol, many countries have agreed to reduce their greenhouse gas emissions in order to protect the environment.

B_ **The Child Rights Convention** is **(01p)**

Countries that have signed this convention must respect the rights it gives to children and make sure these rights are made known and protected.

5_ Continue the following table : (03 p)

	advocacy
Greenpeace	work on climate change . **(01 p)**

Amnesty International's	human rights . **(01 p)**
the International Campaign to Ban Landmines	shaping a global treaty to prohibit use of landmines**. (01p)**

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : International Law and Human Rights

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (10p)

International Law	…… …… ……
Public international law	…… …… ……
Private international law	…… …… ……
Supranational Law	…… …… ……
International Organizations	…… …… ……

2_Translate the following terms : (05p)

territory	……..	السيادة	…….
role	……..	المحكمة الجنائية الدولية	…….
sovereignty	……..	معاهدة , اتفاقية	…….
country	……..	الفاعل (اللاعب)	…….
government	……..	منظمة التجارة الدولية	…….

3_ States play the central and undisputed leading role in the creation of international law.The generally agreed upon criteria for statehood are:(conditions) (04p)

1_ ……

2_……..……

3_ ……..……

4_ ……..……

Your teacher : Good Luck

Mohammed Kheidher University Of Biskra

Module : English Language

The Correction

Answer the following questions :

1_ Give the definition of the following terms : (10p)

International Law	the set of rules that countries follow in dealing with each other
Public international law	deals mostly with the rights and responsibilities that countries have toward each other.
Private international law	deals with relationships between citizens of different countries.
Supranational Law	Supranational law differs from international law. In the case of supranational law a set of Member States (MSs) have agreed to transfer parts of their sovereignty to a supranational organization.
International Organizations	are formed between two or more state governments

2_Translate the following terms : (05p)

territory	……..	السيادة	…….
role	……..	المحكمة الجنائية الدولية	…….
sovereignty	……..	معاهدة , اتفاقية	…….
country	……..	الفاعل (اللاعب)	…….
government	……..	منظمة التجارة الدولية	…….

3_ States play the central and undisputed leading role in the creation of international law.The generally agreed upon criteria for statehood are:(conditions) (04p)

- Possesses a defined territory
- Inhabited by permanent population
- Controlled by an independent government
- Engages in formal relations with other states

Your teacher : Good Luck

Mohammed Kheidher University Of Biskra
Module : English Language
Speciality : International Law and Human Rights

THE QUESTIONS

Answer the following questions :

1_ what is the definition of international law? (02p)

……
……

2 _what are the types of international law ? explain them (06 p)

……
……
……
……
……

3_ Who is bigger state or nation ? (03 p)

……
……
……
……
……

4_ Treaties are the strongest and most binding source of international law , why ? (02 p)

……
……
……

5_Give the definition of :

A _ International organization : (02 p)

……
……

B_ Non govermental organization (NGO) : (02 p)

……
……

6_ Continue the following table : (03 p)

	Way of voting (decision making)
The General Assembly of UN	**……....**

the Security Council	**……....**
The World Bank	**……....**

Your teacher : good luck

Mohammed kheidher university of biskra
Module : english language
Speciality : International law and human rights

THE CORRECTION

Answer the following questions :

1_ what is the definition of international law? (02p)

international law is simply the set of rules that countries follow in dealing with each other.

2 _what are the types of international law ? explain them (06 p)

Public International Law: The relationship between sovereign states and international entities such as International Criminal Court .
Private International Law: Addressing questions of jurisdiction in conflict .
Supranational Law: The set of collective laws that sovereign states voluntarily yield to .

3_ Who is bigger state or nation ? (03 p)

A state is an organized community living under a unified political system, the government

A nation may refer to a community of people who share a common language, culture, ethnicity, descent, or history

The State has four elements—population, territory, government, and sovereignty. In the absence of even one element, a State cannot be really a State. A state is always characterised by all these four elements. On the contrary, a nation is a group of people who have a strong sense of unity and common consciousness.

A_ Nation can be wider ,bigger than the State:

The State is limited to a fixed territory. Its boundaries can increase or decrease but the process of change is always very complex. However a nation may or may not remain within the bounds of a fixed territory. Ex : the Arabic nation .

B_ _ State can be wider ,bigger than the Nation :

There can be two or more than two nations within a single State.ex ; the U.S.A .

4_ Treaties are the strongest and most binding source of international law , why ? (02 p)

Treaties are the strongest and most binding type because they represent consensual agreements between the countries who sign them .

5_Give the definition of :

A _ International organization : (02 p)

International organizations are formed between two or more state governments .

B_ Non govermental organization (NGO) : (02 p)

Non-governmental organizations (NGOs) are groups formed by individuals working across national borders to affect public policy.

6_ Continue the following table : (03 p)

	Way of voting (decision making)
The General Assembly of UN	each state has one vote
the Security Council	five states are permanent members and have a veto over any action.
The World Bank	voting according to the Member State's shareholding status "one dollar = one vote"

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Module : english language
Speciality : International law and human rights

THE QUESTIONS

Answer the following questions :

1_ What are the different basis of state ? (02p)

……
……
……

2 _ Give the definition of :

A _ International organization : (02 p)

……
……

B_ Non govermental organization (NGO) : (02 p)

……
……
……

3_ Treaties are the strongest and most binding source of international law , why ? ? (03 p)

……
……

4_ what are the sources of international law ? (05 p)

……
……
……
……

5_ Continue the following table : (03 p)

	Way of voting (decision making)
The General Assembly of UN	……....
the Security Council	……....
The World Bank	……....

6_ Continue the following table : (03 p)

	advocacy

Greenpeace	**……....**
Amnesty International's	**……....**
the International Campaign to Ban Landmines	**……....**

Your teacher : good luck

Mohammed kheidher university of biskra
Module : english language
Speciality : International law and human rights

THE CORRECTION

Answer the following questions :

1_ What are the different basis of state ? (02p)

- Possesses a defined territory**.(0.5p)**
- Inhabited by permanent population **.(0.5p)**
- Controlled by an independent government (political authority) **.(0.5p)**
- Engages in formal relations with other states**.(0.5p)**

2 _ Give the definition of :

A _ International organization : (02 p)

International organizations are formed between two or more state governments .

B_ Non govermental organization (NGO) : (02 p)

Non-governmental organizations (NGOs) are groups formed by individuals working across national borders to affect public policy.

3_ Treaties are the strongest and most binding source of international law , why ? ? (03 p)

Treaties are the strongest and most binding type because they represent consensual agreements between the countries who sign them .

4_ what are the sources of international law ? (05 p)

1. Treaties . **(01 p)**
2. Customary state practice . **(01 p)**
3. General principles of law common to many countries . **(01 p)**
4. Domestic judicial decisions . **(01 p)**
5. The legal scholarship. **(01 p)**

5_ Continue the following table : (03 p)

	Way of voting (decision making)

The General Assembly of UN	each state has one vote **(01 p)**
the Security Council	five states are permanent members and have a veto over any action. **(01 p)**
The World Bank	voting according to the Member State's shareholding status . **(01 p)**"one dollar = one vote"

6_ Continue the following table : (03 p)

	advocacy
Greenpeace	work on climate change . **(01 p)**
Amnesty International's	human rights . **(01 p)**
the International Campaign to Ban Landmines	shaping a global treaty to prohibit use of landmines. **(01 p)**

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Module : english language
Speciality : International law and human rights

THE QUESTIONS

Answer the following questions :

1_ Give the definition of the following terms : (08p)

Treatiy	…… ……
Theory of "natural law"	…… ……
Customary international law	…… ……
Good faith	…… ……

2 _Give two rules (examples) of Customary international law (02p)

A _ →
B_ → ……

3_ Complete the following table : (06p)

field of treaty	example
……	……
……	……

4_ when General principles are most useful as sources of international law ? (02p)

……
……

5 _ Translate the following words (02p).

English	scholarship	arbitration	bilateral	provisions
Arabic	……..	……..	……..	…….

Your teacher : good luck

Mohammed kheidher university of biskra
Module : english language
Speciality : International law and human rights

THE CORRECTION

1_ The definition of the following terms : (08p)

Treatiy	Treaties are similar to contracts between countries; promises between States are exchanged, finalized in writing, and signed.
Theory of "natural law"	argues that laws are a reflection of the instinctual belief that some acts are right while other acts are wrong.
Customary international law	CIL is created by the actual actions of states (called "state practice") when they demonstrate that those states believe that acting otherwise would be illegal.
Good faith	the concept that everyone intends to comply with agreements they make.

2 _ Two rules (examples) of Customary international law (02p)

A _ ⟶	Protection to ambassadors **.**
B_ ⟶	Intentionally killing civilians during wartime is illegal in international law**.**

3_ Complete the following table : (06p)

field of treaty	Example
trade relations	the North American Free Trade Agreement.
control of nuclear weapons	the Nuclear Non-Proliferation Treaty

4_ when General principles are most useful as sources of international law ? (02p)

General principles are most useful as sources of law when no treaty or CIL has conclusively addressed an issue.

5 _ Translate the following words (02p).

English	scholarship	arbitration	bilateral	provisions
Arabic	**الفقه**	**التحكيم**	**ثنائي**	**نصوص**

Legal terms

English	Arabic
Money laundering	غسيل الأموال
Confiscation	المصادرة
Public prosecution	النيابة العامة
Forging of Coins	تزوير العملة
Seizure	الحجز
Guilty	متهم
Theft/ Stealing	السرقة
Trial	محاكمة
Bribery	الرشوة
Jail / prison	الحبس/ السجن
The System of immediate appearance	نظام المثول الفوري
Blackmail	ابتزاز
Criminal prosecution	المتابعة الجزائية
Witness	الشاهد
Murder	القتل
Fraudulent	احتيال
Victim	ضحية
Felony	جناية

Misdemeanor	جنحة
Contravention	مخالفة
Fine	الغرامة
Criminal order	الأمر الجزائي
Fixed-term contracts	عقود محددة المدة
Retirement	التقاعــد
Training	التدريب
Promotion	الترقية
Recruitment by competition	التوظيف على اساس الشهادة
Permanent job	عمل دائم
Professional experience	الخبرة المهنية
Wage	الأجر
Official journal	الجريدة الرسمية
Offer	عرض
Legitimacy principle	مبدأ المشروعية
Immoveable property	ملكية عقارية
Exploitation	الاستغلال
Moveable property	ملكية منقولة
Recruitment by qualifications	التوظيف على أساس المؤهلات
Remuneration	العلاوة/المكافأة
Appeals committees	لجان الطعن
Labor law	قانون العمل
Public employees	موظفين /مستخدمين عموميين
Public administration	إدارة عامة
Salary	الراتب
Acceptance	القبول
Vices of consent	عيوب الرضا
Void	باطل
Fraud	التدليس

Duress/violence	الاكراه
Pacta sent servanda	العقد شريعة المتعاقدين
Mistake/ Error	الغلط
Prosecutor	مدعي عام
Estate agent	وكيل عقارات
Court action دعوى قضائية	
Court of subject	محكمة موضوع
Court of law	محكمة قانون
Particulars of the judgment	حيثيات الحكم
Assize court	محكمة جنايات
Presumption	قرينة
Balance of payment	ميزان المدفوعات
Globalization	العولمة
Common property	ملك مشاع
Prescription	تقادم
Court of first instance	محكمة الدرجة الأولى
Court of appeal	محكمة الاستئناف
Court of cassation	محكمة النقض
Contractual liability	مسؤولية عقدية
Tortious liability	مسؤولية تقصيرية
Crime scene	مسرح الجريمة
Nationalization	التأميم
Land certificate	سند ملكية الأرض
Distress	الحجز على الأموال
Asylum seeker	لاجئ سياسي
Majority	سن الرشد
Attorney general	النائب العام
Came into operation	أصبح نافذ المفعول
Clearance	مقاصة

Coercion	إكراه
International legality	الشرعية الدولية
International court of justice (ICJ)	محكمة العدل الدولية
World health organization (WHO)	منظمة الصحة العالمية
International monetary fund (IMF)	صندوق النقد الدولي
International labor organization (ILO)	منظمة العمل الدولي
International criminal court (ICC) ا	لمحكمة الجنائية الدولية
Food and agriculture organization of the United Nations (FAO)	منظمة الأمم المتحدة للأغذية والزراعة
United Nations conference on trade and development (UNICTAD)	مؤتمر الأمم المتحدة للتجارة والتنمية
World trade organization (WTO)	منظمة التجارة العالمية
United Nations environment programme(UNEP)	برنامج الأمم المتحدة للبيئة
United Nations development programme (UNDP)	برنامج الأمم المتحدة للتنمية
United Nations children's fund (UNICEF)	صندوق الأمم المتحدة للطفولة
United Nations educational scientific and cultural organization (UNESCO)	منظمة الأمم المتحدة للتربية والعلوم والثقافة

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