
ADMINISTRATION OF DOCTRINE OF PROPORTIONALITY IN ADMINISTRATIVE LAW

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Introduction

Administrative law is a critical branch of law that governs the relationship between the government and its citizens. The government is responsible for providing various services, such as education, healthcare, and security, among others, to its citizens. However, in performing its duties, the government must act within the limits of the law and respect the rights of citizens. Administrative law provides a framework for ensuring that the government operates in a fair and reasonable manner and that the rights of citizens are protected.

One of the principles that guide administrative law is the doctrine of proportionality. The doctrine of proportionality is a legal principle that requires that the actions of the government be proportional to the end that they seek to achieve. The doctrine of proportionality is an essential tool for ensuring that the government's actions are fair and reasonable. The principle is designed to prevent the government from taking actions that are more severe than necessary to achieve its objectives. In this way, the doctrine of proportionality protects citizens from arbitrary government action.

The doctrine of proportionality has three elements: suitability, necessity, and proportionality *stricto sensu*. Suitability refers to the appropriateness of the government's action in achieving its objective. Necessity refers to whether the government's action is the least restrictive means of achieving its objective. Proportionality *stricto sensu* refers to whether the benefits of the government's action outweigh its costs. The administration of the doctrine of proportionality involves the application of these three elements to the actions of the government.

In this paper, we will explore the administration of the doctrine of proportionality in administrative law. The paper will discuss the background of the doctrine of proportionality, including its origin in Europe and its adoption by other countries. We will then examine the

administration of the doctrine of proportionality, including the three elements of the doctrine and their application to the actions of the government. Finally, we will conclude by highlighting the importance of the doctrine of proportionality in ensuring that the government's actions are fair and reasonable and that the rights of citizens are protected.

Background

The doctrine of proportionality is a legal principle that originated in Europe and has become an important principle in administrative law. The principle has its roots in the German legal system, where it is known as 'Verhältnismäßigkeitsprinzip'. The principle was later adopted by other European countries, including France, Italy, and the Netherlands. The principle of proportionality has also been recognized in the jurisprudence of other countries, including the United States and Canada.

The concept of proportionality is emerging as a new basis for the judicial review of administrative actions, and is firmly established in the administrative law systems of continental Europe. Advocates of this doctrine assert that it is an effective tool for preventing arbitrariness in administrative decision-making. However, there is an ongoing debate among legal experts regarding whether the proportionality doctrine can replace the outdated *Wednesbury* principle for assessing the rationality of administrative decisions.

The reconciliation of the principle of judicial review, which generally prohibits courts from delving into the merits of a decision, and the proportionality doctrine, which permits some review of the merits, is a contentious issue. Although courts are still grappling with the fundamental aspects of the proportionality doctrine, an analysis of case law reveals that judges face difficulties in correctly applying this novel principle of law. As a significant legal principle and basis for judicial review of administrative action, research on the doctrine of proportionality is of great academic and legal interest.

The doctrine of proportionality is based on the idea that the government should not take action that is more severe than necessary to achieve its objectives. The principle is designed to ensure that the government's actions are reasonable and proportionate to the end they seek to achieve. The principle of proportionality is an essential tool in ensuring that the government's actions are fair and reasonable and that the rights of citizens are protected.

The doctrine of proportionality has three elements: suitability, necessity, and proportionality *stricto sensu*. Suitability refers to the appropriateness of the government's action in achieving its objective. Necessity refers to whether the government's action is the least restrictive means of achieving its objective. Proportionality *stricto sensu* refers to whether the benefits of the government's action outweigh its costs. These three elements form the basis for the administration of the doctrine of proportionality in administrative law.

The principle of proportionality has been recognized in various fields of law, including constitutional law, international law, and administrative law. In constitutional law, the principle of proportionality is used to determine whether a law or government action is constitutional. In international law, the principle of proportionality is used to determine whether a state's action is proportional to the threat it faces. In administrative law, the principle of proportionality is used to determine whether the government's action is reasonable and proportionate to the end it seeks to achieve.

In conclusion, the doctrine of proportionality is an essential principle in administrative law. The principle is designed to ensure that the government's actions are fair and reasonable and that the rights of citizens are protected. The doctrine of proportionality has its roots in Europe and has been recognized in various fields of law, including constitutional law, international law, and administrative law. The principle of proportionality is an important tool in ensuring that the government operates within the limits of the law and that citizens are protected from arbitrary government action.

Administration of Doctrine of Proportionality

The administration of the doctrine of proportionality in administrative law involves the application of the three elements of the doctrine: suitability, necessity, and proportionality *stricto sensu* to the actions of the government. The principle of proportionality requires that the government's action be proportional to the end it seeks to achieve. The administration of the doctrine of proportionality ensures that the government's actions are fair and reasonable and that the rights of citizens are protected.

The first element of the doctrine of proportionality is suitability. Suitability requires that the government's action be appropriate in achieving its objective. The government's action must be effective in achieving its objective, and it must be directly related to the objective. For

example, if the government's objective is to prevent the spread of a disease, its action must be appropriate in achieving that objective. The action could be measures such as mandating the use of masks, social distancing, and limiting gatherings. If the government's action is not appropriate in achieving its objective, it would fail the suitability test.

The second element of the doctrine of proportionality is necessity. Necessity requires that the government's action be the least restrictive means of achieving its objective. The government must choose the least restrictive means to achieve its objective. For example, if the government's objective is to prevent the spread of a disease, it must choose the least restrictive means of achieving that objective. The government could choose measures such as mandating the use of masks, social distancing, and limiting gatherings, which are less restrictive than measures such as a total lockdown. If the government's action is not the least restrictive means of achieving its objective, it would fail the necessity test.

The third element of the doctrine of proportionality is proportionality *stricto sensu*. Proportionality *stricto sensu* requires that the benefits of the government's action outweigh its costs. The government's action must have a net positive effect on achieving its objective. The benefits of the government's action must outweigh its costs. For example, if the government's objective is to prevent the spread of a disease, the benefits of the government's action must outweigh the costs of the action. The costs of the government's action could include economic costs, social costs, and individual rights. If the costs of the government's action outweigh the benefits, the government's action would fail the proportionality *stricto sensu* test. The administration of the doctrine of proportionality requires a careful and balanced analysis of the government's action.

The three elements of the doctrine must be applied rigorously to ensure that the government's action is fair and reasonable and that the rights of citizens are protected. The doctrine of proportionality provides an essential tool for ensuring that the government operates within the limits of the law and that citizens are protected from arbitrary government action. The administration of the doctrine of proportionality provides an essential tool for ensuring that the government operates within the limits of the law and that citizens are protected from arbitrary government action.

Objective of Study

Has the balance of different interests or objectives been properly weighed and equitably balanced? Has the action under review imposed an unnecessary burden or been excessively restrictive? The Indian Constitution's Articles 14 and 19 have been clarified by many rulings on the doctrine of proportionality. In the early administrative law case of *Ranjit Thakur v. Union of India*, it was stated that the concept of proportionality as part of judicial review would ensure that even if the court-martial had exclusive jurisdiction, an unreasonable or perverse sentence could be corrected. The courts have repeatedly examined whether the restrictions imposed by legislation infringe on fundamental freedoms enumerated in Article 19(1) of the Constitution and whether they are disproportionate to the situation and not the least restrictive of options. Therefore, proportionality means that while regulating the exercise of fundamental rights, the legislature or administrator must adopt the most appropriate or least restrictive measures to achieve the objective of the legislation or administrative order.

The court is responsible for determining if the choice made by the legislature or administrative authorities excessively infringes on rights. In India, the courts have always used the doctrine of proportionality when judging the reasonableness of a restriction on the exercise of fundamental rights because fundamental rights form part of the Indian Constitution. The principle of proportionality originated in Prussia in the nineteenth century and has since been adopted in Germany, France, and other European countries. When administrative action is discretionary under Article 14 of the constitution, this principle applies.

In contrast, when administrative action is questioned as "arbitrary" under Article 14, *Wednesbury's* principle applies. The courts in India have examined whether the classification was based on intelligible differentia and whether the differentia had a reasonable nexus with the object of the legislation when it comes to Article 14. It means that the courts were examining the validity of the difference and the adequacy of the difference, which is again the principle of proportionality. In cases not involving fundamental freedoms, the role of Indian courts/tribunals in administrative law is purely secondary. When applying the *Wednesbury* and *CCSU4* principles to test the validity of executive or administrative action taken under statutory powers, the courts can only go into the matter as a secondary reviewing court to determine if the executive or administrator has made a reasonable decision based on the information available to them. The choice of the option available is up to the authority.

The courts/tribunals cannot substitute their judgment for what is reasonable. The doctrine requires that administrative measures must not be more drastic than necessary to achieve the desired result. If the authority's action is grossly disproportionate, the court may scrutinize the decision. This is not only an unreasonable and improper exercise of power but also indicates bias and prejudice. The doctrine applies to both procedural and substantive matters and has been expanded in recent times and applied to various areas other than administrative law.

Case Law

The Supreme Court introduced the Doctrine of Proportionality in **Om Kumar v. Union of India**, where the disciplinary authority had requested a re-evaluation of the punishment given to four civil servants. The court declined to do so, as there was no breach of law and the punishment was not excessively disproportionate to the offenses committed. This established the legal position, which was later reinforced in subsequent cases by the Supreme Court, including **P. SRTC v. Hoti Lal**. The appellant's corporation employed the respondent as a conductor, but he was found to be misappropriating funds by accepting payment from passengers without issuing tickets. The disciplinary committee conducted an investigation and decided to terminate his employment. However, the decision was overturned by the High Court because they believed the punishment did not fit the crime. The corporation appealed this decision to the Supreme Court, arguing that the fiduciary relationship between the corporation and conductor was breached by the respondent's actions, and that his behavior warranted termination to maintain discipline and discourage similar misconduct. The Supreme Court agreed with the corporation and ruled that the punishment was not disproportionate to the misconduct, and did not shock the court's conscience enough to warrant interference.

In the case of **Union of India v. Rajesh PU, Puthuvalnikathu**, the Central Bureau of Investigation (CBI) invited applications for vacant posts. During the physical efficiency test, allegations of "nepotism and favoritism" were raised, and irregularities were claimed during the written test. As a result, the selection list was canceled and challenged in court. During an inquiry conducted by the High Court, it was discovered that irregularities could be identified, and there was no reason to cancel the entire list of selected candidates. The court found irregularities in the selection of 31 candidates and passed an order accordingly. The Supreme Court accepted the High Court's decision and held that the Doctrine of Proportionality states that administrative authorities should not take action more severe than necessary to achieve

their goals. The Court concluded that there was no reason to cancel the entire list and that it was sufficient to cancel only the selection of the 31 candidates in whose selection irregularities were found and proven.

Conclusion

The Doctrine of Proportionality is a significant principle in India that has practical and social implications. This doctrine originated in Russia in the 19th century and was later adopted by Germany, France, and other European countries. Essentially, the doctrine requires the legislature or administrator to strike a proper balance between the adverse effects that legislation or administrative orders may have on the rights, liberties, or interests of individuals while keeping in mind the intended purpose.

The court will assess whether the appropriate or least restrictive choice of measures has been made by the legislature or administrator to achieve the object of the legislation or the purpose of the administrative order. When legislation allows administrative authorities to exercise discretion while imposing restrictions on individual situations, the administrative action is subject to the principle of proportionality, just like main legislation. The High Court has made errors in determining whether a punishment is disproportionate, and the Supreme Court has often reversed such decisions.

The doctrine of proportionality is a fundamental principle in administrative law that plays a vital role in ensuring that government actions are fair, reasonable, and proportionate. The administration of the doctrine of proportionality involves a rigorous analysis of the government's action to determine whether it meets the three elements of the doctrine: suitability, necessity, and proportionality *stricto sensu*. The principle of proportionality requires that the government's action be proportional to the end it seeks to achieve, and the doctrine of proportionality provides a framework for achieving this objective.

The administration of the doctrine of proportionality is essential to protect the rights of citizens and ensure that the government operates within the limits of the law. By requiring the government to demonstrate that its actions are suitable, necessary, and proportionate, the doctrine of proportionality serves as a safeguard against arbitrary or excessive government action. It provides an important tool for the judiciary and other administrative bodies to review government decisions and ensure that they are consistent with the rule of law.

In today's complex and rapidly changing world, the administration of the doctrine of proportionality has become increasingly important. As governments face new challenges, such as public health crises, economic downturns, and environmental threats, they must be able to respond quickly and effectively. However, they must do so in a manner that is fair, reasonable, and proportionate. The doctrine of proportionality provides a framework for achieving this balance, ensuring that the government's actions are always proportionate to the end they seek to achieve.

The Doctrine of Proportionality is applied only in exceptional cases where the punishment given by the administrative body is not in proportion to the misconduct and shocks the conscience of the court. Moreover, this doctrine cannot be used to reduce punishment on compassionate grounds. In one case, the High Court reduced the punishment on compassionate grounds, and its decision was overturned by the Supreme Court. Finally, the Doctrine of Proportionality is not only limited to disciplinary orders, penalty, or fundamental freedom, but also applies to cases where the measure taken by an institution was unnecessary, and a least restrictive measure was available.