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Quasi-Judicial Oversight and the Rise of Administrative Arbitrariness: Revisiting Natural Justice in Contemporary Governance

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ABSTRACT

This paper delves into the increasing prevalence of administrative overreach by quasi-judicial authorities and its implications on the principles of audi alteram partem and nemo judex in causa sua. Employing comparative doctrinal analysis and select case law from the UK, India, and the EU, it interrogates the erosion of procedural fairness. Further, it scrutinizes the latent dissonance between delegated legislation and constitutional supremacy. Incorporating lesser-used legal doctrines such as the Wednesbury unreasonableness and sub silentio rulings, this study suggests an imperative for rekindling judicial restraint and evolving a fortified review jurisprudence. The language integrates a moderate layer of archaic terms to echo the evolution of legal traditions.

I. INTRODUCTION

In the interstice between legislative mandate and executive discretion thrives a corpus of quasi-judicial bodies whose legitimacy, though statutorily conferred, oft treads the grey path of constitutional propriety. The vesting of adjudicatory powers in administrative limbs has birthed a jurisprudential conundrum—should they be fettered by the same standards of fairness as courts? The answer, albeit oft affirmed, remains beleaguered by praxis.

Let it not be forgotten that justice, though blind, must not be blinkered. As the modern administrative state burgeons, so too must the vigilance against arbitrariness. Herein lies the gravamen of this treatise.

II. THE NATURE AND FUNCTION OF QUASI-JUDICIAL AUTHORITIES

Quasi-judicial authorities (QJAs) are sui generis in character. Not wholly administrative nor strictly judicial, they operate within the penumbra of adjudication. From tribunals such as the Central Administrative Tribunal (India) to regulatory commissions like Ofcom (UK), their remit is vast.

The term ultra vires, oft whispered in legal lore, becomes central when such authorities

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transgress the statutory boundaries. While their raison d'être lies in specialization and expedience, their pronouncements carry the trappings of judicial finality—sans the rigor.

Moreover, procedural vagaries remain a locus of contention. A QJA may, in the garb of expediency, eschew the elaborate protections that courts afford, thereby leaving the justiciable citizenry in a state of 'liminal legality'.

III. Natural Justice and Its Modern Discontents

The doctrine of natural justice, albeit ancient, is no fossil. Its twin pillars—audi alteram partem (hear the other side) and nemo judex in causa sua (no one shall be a judge in his own cause)—are being routinely abridged under the aegis of public interest and administrative necessity.

A troubling modern tendency is the ex parte issuance of decisions with post facto rationalizations. While courts have intervened, as in Union of India v. Tulsiram Patel, to dilute the rigors of natural justice under "special circumstances," the door thus ajar has widened into a chasm.

Further exacerbating the issue is the nebulous invocation of 'policy' as a defence. Policies are no longer lex non scripta but are treated as binding diktats, immune to challenge even when violative of fundamental rights.

IV. Doctrinal Evolutions and Lesser-Known Concepts

Several underexplored legal doctrines deserve renewed attention:

- Wednesbury Unreasonableness: A doctrine evolved in Associated Provincial Picture Houses Ltd v. Wednesbury Corporation, it dictates that a decision so unreasonable that no reasonable person would arrive at it is void. However, its subjective elasticity renders it feeble in administrative litigation.
- Sub Silentio: Latin for "under silence," this concept refers to judicial decisions rendered without express discussion of the relevant issue. Such rulings, though binding, may be per incuriam.
- Curial Deference: This term refers to the reluctance of courts to interfere in executive decisions, particularly in areas requiring technical expertise. However, such deference, when absolute, becomes abdication.
- Non obstante clauses: Statutory provisions beginning with "notwithstanding anything contained…" are potent tools that override established rights, often used injudiciously to mask legislative arbitrariness.

V. ARCHAIC LEXICON IN LEGAL PRACTICE

This paper, verily and with due solemnity, revives the usage of archaic legal terms to underscore the continuity of legal evolution:

- Heretofore, the principle of fairness has been a cardinal virtue.
- Wherefore, any derogation from such standards must be scrutinised.
- Thenceforth, it behooves the judiciary to guard against insidious erosions.
- Whensoever the State doth act in excess, the courts must not slumber.
- Haply, a renewed doctrine of proportionality may emerge to counterbalance such trends.

Such diction, albeit antiquated, lends gravitas and historical continuity to jurisprudential debates.

VI. RECOMMENDATIONS AND CONCLUSIONS

The courts must transcend the narrow confines of deference and rekindle the flame of judicial review. It is recommended that:

- A codified Administrative Justice Charter be instituted.
- Mandatory recording of reasons for every quasi-judicial decision.
- Limiting the overuse of non obstante clauses through parliamentary scrutiny.
- Judicial training on lesser-known doctrines to strengthen review mechanisms.

As administrative decisions increasingly impact the quotidian lives of citizens, a robust legal scaffold grounded in both ancient virtue and modern efficacy is indispensable.

In summation, while the law must adapt, it must not abdicate. Its beauty lies in its consuetude as much as in its code.

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