



RESEARCH PAPER

Comparative Implications of Wednesbury Principle in England and Pakistan

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PAPER INFO	ABSTRACT
<p>Received: September 27, 2021</p> <p>Accepted: December 29, 2021</p> <p>Online: December 31, 2021</p> <p>Keywords: Administrative Authorities, Critical Analysis, Illegality, Judicial Review, Pakistan Wednesbury Unreasonableness.</p> <p>*Corresponding Author: saraqayum@gmail.com</p>	<p>Wednesbury principle is one of the most important and useful grounds of the Judicial Review. Judicial review is a remedy provided by the public law and is exercised by the superior and higher courts to supervise administrative authorities' powers and functions. The main objective of the judicial review is to ensure the fair and transparent treatment of individuals by public authorities. The ground of the judicial review, i.e., Unreasonableness or irrationality or popularly known as Wednesbury Unreasonableness was introduced by lord Greene in the Wednesbury Corporation case in 1948. Initially, the scope of this ground of judicial review was very narrow and was allowed only in rare cases. However, with the development of administrative law and Human rights, it also developed. Its development resulted in different controversies and issues about the application of this ground. The main issue is about its encroachment in the jurisdiction of other branches of the government i.e., the parliament and executive. The free and loose application of this principle results in confusion and conflict between different organs of the government. The present paper is based on the implications of the limitations on the ground of Wednesbury Unreasonableness both on the judicial and administrative bodies in Pakistan to avoid the chaos and confusion that results in the criticisms on this ground of judicial review.</p>

Introduction

Administrative law is an important branch of public law that relates with the administration of government. The administrative structure in Pakistan is borrowed from the pre-partition All India Civil Services. According to Sir Ivor (Jenning 1959), "Administrative law determines the organization, powers and duties of administrative authorities". In Pakistan, the Wednesbury principle is quite frequently used, while in England, it is slowly and gradually developing just like common law. There is no concept of free and independent exercise of the Wednesbury Principle i.e., unreasonableness or irrationality as a ground of judicial review. As the theory of Separation of Powers is not practically applicable without the doctrine of 'Check and Balance System,' similarly the Principle of Wednesbury Unreasonableness will amount to judicial activism without the observation of these limitations by the courts. This problem of judicial activism also arises in Pakistan due to the non-observation of these limitations. In England, there are number of limitations that are associated with this principle since its very inception when Lord Greene gave the decision in the classic case of, "Associate Provincial Picture House Ltd. vs. Wednesbury Corporation", 1948 (AC,1948) Lord Greene defined the unreasonableness as under:

It is true that discretion must be exercised reasonably. Now, what does that mean? There may be something so obscured that no sensible person could ever dream that it lay within the powers of the authority. Warrington LJ in *short vs. Pool Corporation* gives the example of the red-haired teacher, dismissed because she had red hair. That is unreasonable in one sense. In another sense, it is taking into consideration extraneous matter. It is so unreasonable that it might almost be described as being done in bad faith, and in fact, all these things run into one another."

These limitations are part and parcel of this principle and cannot be separated from it. Although the Wednesbury Principle is now well established in England and almost all Common-Wealth countries, it is insisted by different jurists and judges that its application should be restricted only to *prima facie* cases. According to Naomi Sidebotham, this ground of judicial review should be exercised restrictedly as a safety net only. (Sidebotham, 2001)

Another important definition of the Wednesbury Principle is given by Lord Diplock in the famous case, "Council of Civil Services Union vs. Minister for the Civil Services popularly known as GCHQ 1985". According to Lord Diplock,

"A decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. (AC, 1985)

By irrationality Lord Diplock means such decisions, actions, or orders of administrative authorities that are outrageous of:

- a) defiance of logic or,
- b) Accepted moral standards.

It is clear from the above definition that the decision must be such that no reasonable person would have come to it.

A very fine and interesting distinction has been given by Sir William Wade, between irrationality and unreasonableness. Irrationality means 'devoid of reason' whereas unreasonableness means 'devoid of satisfactory reasons' (William & Forsyth, 2004)

Brief History of the Wednesbury Principle

Before discussing different limitations associated with the Wednesbury principle, we will have to overview the brief facts and the decision as given by Lord Greene in the case of *Associate Provincial Picture House Ltd V Wednesbury Corporation* [1984].

Houses Ltd. Vs. Wednesbury Corporation [1947] APP.L.R. 11/10.

Wednesbury case is not such a remarkable case in the sense that it involves neither constitutional law nor ordinary law, but a by-law was challenged, i.e., municipal law passed by the Wednesbury Corporation. According to this law, the admission of children under 15 years, with or without parents, to the cinema on Sunday was prohibited. Despite a by-law, it has a great impact on the further development of the grounds of judicial review not only in the English legal system but also effected the legal systems of the world, especially the commonwealth countries. It has broadened the scope of the judicial review and introduced an effective legal check on the powers of the administrative authorities that is popularly known as Wednesbury Unreasonableness.

Facts of the Case

The Wednesbury case is based on the "Sunday Entertainment Act 1932". This Act empowered the local authorities "to permit and regulate the opening and use of places on Sunday for certain entertainments." The Act gives discretionary power to the licensing authority to open the cinema on Sunday. The licensing authority was established under the, "Cinematograph Act 1909". Before this Act the opening of cinema on Sunday was illegal. On the Associated Provincial Picture Houses Ltd. application, the Wednesbury Corporation i.e., the licensing authority, issued conditional permission to open the cinema on Sunday. The condition was that the children below 15 years were not allowed to the cinema with or without adults. Now question arises why the Wednesbury Corporation imposed this condition? Whether was there any valid reason or logical argument behind that condition? That was the condition that the Associated Provincial Picture Houses Ltd. challenged, and it becomes the base or origin of the last ground of judicial review i.e., Unreasonableness of Irrationality.

In 1947 Departmental committee was established by the Home Office and Department of Education to find out the effects of the cinema on children and give suggestions about the admission of children in cinema. The licensing authority of the Wednesbury, when imposing the condition that the children below 15 years shall not be allowed to the cinema on Sunday with or with parents, taking into consideration the following reasons;

- Physical and moral health of the children.
- education of the children, and
- The spiritual and moral aspect of the children i.e., children should observe Sabbath (Sunday observed among Christians as a day of rest and worship) on Sunday.

According to Mr. Gallop, the council of the plaintiff, the licensing authority of Wednesbury corporation acted unreasonably in imposing that condition because of the following reasons:-

- There was no such prohibition on children in the neighboring towns, e.g., Birmingham.

- A large number of the general public visited the cinema on Sunday with their families. So it was expected a huge loss for cinema owners.
- It would also become a precedent for other neighboring towns, and,
- It was said that if the condition was imposed, it should be amended and children should be allowed to the cinema along with their parents.

Suppose such a condition is to be imposed at the present time. In that case, i.e., children should be banned from going to the cinema on Sunday, it may be considered as an unreasonable and irrational decision because now most of the entertainment activities are held on Sundays or weekends. In order to decide the case, the court established the following limitations and principles, according to which the court cannot interfere in an executive action of the administration;

- Where executive authority acted lawfully.
- Where the Parliament entrusts discretionary powers, which cannot be challenged.
- Where discretionary powers are absolute i.e., without any limitation.
- Where an appeal is not provided against discretionary power of the authority i.e., the decision is final.

Where the authority exercises discretionary power within the sphere of its power, and

- Lastly where two or more options are available to the discretionary authority, and it has selected any one of them.

According to the court in the present case, the Wednesbury Corporation did not contravene any of the above mentioned principles in imposing that condition, on which it can be declared as an unreasonable condition. In para 6 and onward portion of the decision, the word unreasonableness was defined. The following three rules were framed by the honorable court for the reasonable exercise of the discretionary powers by an administrative authority:

- 1- Whether the authority had properly used the discretionary power that is vested in him by law.
- 2- Whether the authority had taken into consideration the matters which it is bound to consider, and
- 3- Whether it has excluded the irrelevant considerations in the matter, it is considered.

If the concerned authority did not follow any of the above rule exercising the discretionary power, then it can be justified in declaring that the authority had acted unreasonably. The court was of the opinion that in the present case, Wednesbury's authority followed the above rules i.e., under discretionary power, it has acted properly in law by imposing that condition. The Wednesbury authority was bound to consider the children's

physical and moral health, and it was not an irrelevant matter in that particular case. In its conclusion, the honorable Lord Greene remarks that;

“The court is entitled to investigate the action of the local authority to see whether they have taken into account the matters, which they ought not to take into account, or, conversely, have refused to take into account or neglected to take into account the matters which they ought to take into account.” Further it is said that court is not an appellat authority to override the decision of the locale authority.

According to Lord Greene, unreasonableness may be defined as, “there may be something so obscured that no sensible person could ever dream that all these things run into one another.”

“If a decision on a competent matter is so unreasonable that no reasonable authority could ever come to it ‘then the court can interfere. That, I, think is quite right, but to prove a case of that kind would require something overwhelming.”

The above definition of the ‘unreasonableness’ as a ground of the judicial review, given by Lord Greene, of administrative actions, clearly lays down the restricted and strict criteria for the application of this ground. It is based on the principle of non-interference in the jurisdiction of executive. Due to the high level set by this principle, it can be invoked only in extreme and exceptional cases. The rigid application of this ground of judicial review is evident from the different statements given by the court in above mentioned case i.e., “so obscured that no sensible person could ever dream that it lays within the powers of the authority” or “no reasonable authority could ever come to it” or “require something overwhelming” or “taking into consideration extraneous matter” or “being done in bad faith”.

The example of “Warrington LJ in *Short vs. Pool Corporation*” ” (CA, 1926) case, and the above statements given by Lord Greene in this *Wednesbury Corporation* case clearly indicates that this ground of judicial review should not be used loosely rather it will be exercised with great caution and care so as not to encroach the legal jurisdiction of the executive otherwise it will amount to ‘judicial activism’. Administrative powers that are of a ‘ministerial’ nature are absolute and cannot be challenged. In such a case the authority has only one option (i.e., no choice) and, therefore, is bound to act according to law. This ground can be used where an administrative authority exercises its ‘discretionary powers’. In exercising the discretionary powers, the authority will use the reasons and logical arguments in selecting one of the alternatives.

Different Kinds of Limitations on *Wednesbury* Principle

Used as a Safety Nut

The first reason for the restricted application of this principle is the definition given by Lord Greene and which is also afterward codified by the Australian Parliament by passing the Administrative Decision (Judicial Review) Act 1977. At present this is the only Act that codified the definition of 'unreasonableness' as a ground of the judicial review. This Act literally followed the definition of unreasonableness, as given by Lord Greene in *Wednesbury Corporation* case. Most jurists are not satisfied with the definition of 'unreasonableness' or 'irrationality' given by Lord Greene due to its complexity and vagueness. It is against the principle of logic and rationality that if the definition of 'unreasonableness' is not clear, it can be used to review an administrative decision. The definition of unreasonableness contains words like "overwhelming" or "extraneous matter" or "bad faith".

In *Daly* case (1986), Lord Cooke remarks, "there are different degrees of unreasonableness and an administration decision can be reviewed, under this ground, only in extreme degree". (UKHL, 2001) It is difficult to apply this ground of judicial review because the degree of reasonableness changes from case to case so, therefore, there is no uniform standard to apply. Lord Diplock says that "Whether a decision falls within this category is a question that judges by their training and experience should be well equipped to answer, or else there would be something badly wrong with our judicial system". (GCHQ, 1985) So the absence of certainty and the uniform principle of its application it should be applied in *prima facie* cases only. It is generally recommended by jurists like Lord Greene, Lord Diplock, Lord Cook, Naomi Sidebotham, etc. that in *Wednesbury* cases, the ordinary unreasonableness or irrationality will not apply rather, it must be overwhelming. If the courts strictly follow this limitation then there will be only few cases that results in manifestation of unreasonableness and are subject to judicial review on the ground of *wednesbury* principle. Thus, it will reduce the judiciary's burden and its unnecessary encroachment in other organs of the government, especially in the administrative department.

Wednesbury Unreasonableness must result in Illegality

The second important and legal matter responsible for the restricted application of the *Wednesbury* principle is that the "logical error must result in illegality". Ordinary irrationality will not amount to be a ground of judicial review, it means that the courts will not accept the unreasonableness that is based on moral or social standards as a ground of review. According to Gleeson C.J., in the absence of legal consequences, the *Wednesbury* principle will be "an emphatic way of expressing disagreement" (HCA, 2003) In another case the Honorable court remarks that "not every reasonable exercise of judgment is right and not every mistaken exercise of judgment is unreasonable". [1971] AC 682) in his paper Justice Fazal Karim gives legal grounds for giving reasons. He gives an example of *Montgomery flour and General Mill* case,¹¹ "It should be remembered that no discretion vested in an Executive Officer is an absolute and arbitrary discretion," in *Khawaja Muhammad Sharif VS federation* (1988) (PLD 1957). "The President cannot exercise his powers—on wish or whim. He has to have facts, circumstances that can lead a person of his status to form an intelligent opinion requiring the exercise of

discretion of such a grave nature—his action must appear to be called for justifiable under the constitution if challenged in a court of law”.

It is clear from the above cases that courts cannot declare, on the basis of Wednesbury principle, any act of administrative authority as unreasonable or irrational until it is also directly or indirectly contradictory to law e.g., misuse of discretionary powers or where the decision for a decision is required, and it is not given by the decision making authority. Mere disagreement with the merits or reasons of the case will not *ipso facto* makes a decision qualify for judicial review on this ground. This limitation requires that the court's role is limited to maintain the legality in the case, which is the original jurisdiction of the principle of Judicial Review. According to Andrew Le Sueur, “the question of reasonableness usually involved the question of legality or lawfulness while an independent ground it seldom wins”. (Andrew,2004)

Lord Atkin remarks in *Eshugbayi* case (1931) LR. 670) “ following British jurisprudence no member of the executive can interfere with the liberty or property of British subject except on the condition that he can support the legality of his action before a court.”

Parliamentary Sovereignty and Wednesbury Principle

In the Parliamentary form of government, the Parliament is the supreme law-making authority in a state. Any authority cannot challenge any Act passed by the parliament. The Parliament delegate a large number of powers to the different administrative authorities; such powers are either ministerial in nature, i.e., legal duties that are imposed on the authorities, where they have no option or discretion and are legally bound to exercise it in its true ‘letter and spirit’. While the other kind of delegated power is the discretionary powers, in such cases, the administrative authority has a choice among various courses of action or alternative options that are open and available to the authority. Administrative powers that are of ministerial nature are absolute and cannot be challenged. In such cases, the administrative authority has only one course of action and therefore has no option rather it is bound to act according to law. In such cases, there is no question of unreasonable or irrationality arising from the decision or action of a public authority therefore such decisions cannot be reviewed on the ground of the Wednesbury Unreasonableness.

The scope and application of the Wednesbury Unreasonableness cover the discretionary powers of the administrative authorities. In exercising discretionary powers, the public bodies use reason and logic to prefer one of the number of options open to them. The law gives the authority different choices and alternatives to decide an issue, e.g. if an appointment authority is given the power to give age relaxation to any candidate. In such cases, the public authority has discretionary power. Different discretionary phrases are as, if the authority is ‘satisfied’, ‘believes’, or ‘thinks fit’, ‘considering it appropriate’, ‘necessary’ , ‘indispensable’, ‘essential’, etc. in such cases it has wide discretionary powers which are open

to the judge under this ground. Suppose the administrative authority exercise its discretionary powers in selecting an option that is within the range of options open to it. In that case, it cannot be reviewed on the ground of unreasonableness or irrationality because all the options are given to it by law e.g., in *Wednesbury* case, the licensing authority was given wide discretionary power in granting the license for Sunday entertainment by imposing a condition, 'as the authority is satisfied'. Now the condition was imposed in keeping the children's educational and spiritual well-being was considered a reasonable one and was in the range open to it. The principle of unreasonableness will be successfully applied when the decision-making authority order is unreasonable and outrageous, i.e., beyond the range of options open to it. Lord Bright man remarks in the *Hillingdon* case (1986) A.C. 484) "where the law gives wide discretionary powers about existence or non-existence of facts, that range from obvious to conceivable (possible), the court will not interfere because this power is entrusted to the decision making power by law. Lord Bright man also gives the following exceptions to this principle of wide range discretionary powers:

1. If the authority relies upon wrong factual conclusion whether knowingly or unknowingly.
2. Absence of evidence or if the evidence is not sufficient to justify the decision and
3. Parliament never authorizes a public body to conclude a wrong finding of facts.

In *Mir Zaman* case (PLD, 1969 71) the court stated that 'if a statute confirms an absolute discretionary power to an administrative authority to take or not to take action, if the authority takes action one way or the other, the court cannot review or direct its action.'

It is the parliament that has the sole authority to decide what discretionary powers are given to the administrative authority because it is the parliament that is responsible for public welfare, i.e., what is good and what is bad for the general public because it is the people that elect them and are also responsible to them.

A milestone case in the constitutional history of Pakistan is the *Ghulam Jelani* case (PLD 1967 SC 373), In this case the Supreme Court of Pakistan held that mere production of the order reciting satisfaction of the authority must also be placed before the court, the material upon which it so claims to have been satisfied. Where the law is used not for the purpose for which it is made and it is done intentionally, it will amount to mala-fide or done in bad intention. In another case *Ghulam Mehr* (1974 PLD 520) the court observes that if an authority purported to act under the Act and that the Act was made merely an excuse to deprive a man of his liberty. Mala-fides or bad intention means dishonest intention or corrupt motive. But it is difficult to prove an administrative authority's bad faith or intention.

If the public body exercising its discretionary powers, as delegated by the parliament, it cannot be challenged on the grounds of the *Wednesbury* principle, even if the decision looks irrational or unreasonable, if that authority is performing its functions within the scope or

limits by law. Irrationality of ordinary level will not be the subject of judicial review, unless it is so much unreasonable that it is believed that the decision making authority become out of mind or completely misunderstood the facts or law that determine his decision or authority acted arbitrarily without giving any reason or the reasons supporting the decision are not sufficient to justify the decision, etc.

Merits Review

Merit Review is considered a restricted area for judicial review. The courts are not allowed to undertake a 'merits review' of the decision of a public body. The court will not review a decision simply because it looks bad, and certainly will not entertain what looks like an appeal. Traditionally the practice of the courts was based on the principle of non-interference in the merits review. However, with the introduction of the ground of *Wednesbury Unreasonableness*, it becomes a debatable and controversial area. Dealing with the case under *Wednesbury unreasonableness*, the courts start reviewing the logical defects and justification of the decision of a public authority, it here enters the jurisdiction of merit review. An Australian jurist Naomi Sidebotham stated in his paper (sidebotham 2001), that judicial review should not be based on the merits of the case because it will amount to the substitution of the decision of an administrative authority. The same principle is also enshrined in section 16 of the *Administrative Decisions (J.R.) Act 1977 (Cth)*, this Act does not permit any remaking of the decision under consideration, the substitution of a decision by reasonableness is not acceptable, unreasonableness should be confined to the statutory discretion and not extended to facts finding, etc. The threshold must be high enough that the superior courts should not review any administrative decision because it is not agreed with it. Substituting the decision of a public body by judicial review will not only amounts to judicial activism but is also an insult of the public authority. In Pakistan, in a case (2018 CLD 48,) Superior court can exercise judicial review on administrative decisions but cannot treat them as an appeal. In another case, (2017 PLC(CS) 615) it is held by the Baluchistan High Court that the judicial review court is not authorized to change the opinion of the selection board.

It is the generally accepted view that in exercising judicial review, the courts will not enter the merit review arena. This restriction is due to the following two reasons;

- a. The decision-making authority is entitled to hear and evaluate the evidence and then decide the issue.
- b. In recording the evidence, the decision-making authority also keenly observed the conduct, behavior, and expressions, i.e., the witness's body language.
- c. So it means that the recorded statement alone is not enough to give a clear picture of the circumstances or the situation of an issue to form a reasonable and clear opinion, without proper hearing of the witness. Lord Bright man remarks in the

case “Chief constable of North Wales Police vs. [1982] UKHL 10) that “judicial review means review of the manner in which the decision was made”.

In Pakistan, it is a well-recognized principle of judicial review that the court cannot entertain an administrative order for a writ petition that involves disputes about facts.

An exception to this limitation is mentioned in a case, (2017 C L J 163), in which the court held that question of facts decided by lower courts can be reviewed if:

- a. against law
- b. evidence is not noticed or wrongfully interpreted, or
- c. out of the jurisdiction.

Almost the same remarks about the exceptions are given by the Sind High Court in a case, as under:

- a. If the evidence is wrongfully understood interpreted, or ignored.
- b. Law is wrongfully applied.
- c. Facts are wrongfully interpreted e.g. in Hollis case (EWHC, 1984), the inspector incorrectly concluded that the land in issue had ever been of green belt status. The court quash the decision. If the decision is based on wrong facts or misunderstood facts upon which the decision depends, it is irrational.
- d. Wrongful or improper exercise of jurisdiction.

If the decision-making authority comes to a wrong conclusion based on the facts of a case, then such order or decision of the authority is open to be reviewed by the higher court. In a case²⁷, the court held that “making an erroneous finding of fact on an important point of a case.”

Public Policy Matters

It is another very strong and well-recognized restriction on the principle of Wednesbury unreasonableness. Policymaking comes in the government's pure domino, and courts are not allowed to interfere. In a case (1986) 14 FLR309), the High court held that it is the well-established principle that the judicial review cannot be exercised by the courts that involve the government's public policy. The policy itself cannot be challenged in the court; rather, the decisions or actions taken by the administrative authority can be challenged under this ground of judicial review. This exemption is recognized because, firstly, the government is the representative of the people and has the mandate to implement it manifesto through the policies it will make and implement.

Secondly, the government is in a better position to have facts and figures about different issues and matters to form an opinion and policies and thirdly, due to rapid development, a government enters into several treaties with other states, and the policies are made to enforce them in its territorial jurisdiction and to fulfill its international obligations.

In a case²⁹, the High Court held that judicial review is not allowed in cases involving a public authority's policies. So if the administrative authority performs its function under the public policy, it is exempted from judicial review. This limitation is also not an absolute one. The Supreme Court of Pakistan held in a case (PLD 2017 SC) that "Policymaking is the government's jurisdiction and generally courts cannot interfere until it is against the fundamental rights." In another case³¹, the Lahore High Court mentions two exceptions, "It is an established rule of law that the court cannot interfere in the Policy matters unless it is proved that there is the violation of the fundamental rights or is against the constitution.

Conclusion

The Principle of Wednesbury Unreasonableness is a complicated ground of judicial review. Therefore, it must be exercised by the courts with great caution and care to keep a balance between the powers exercised by the public bodies and the legal rights and interests of the individuals. In a developing country like Pakistan, where literacy rate and social and legal awareness are low, these limitations must be adopted and observed.

These limitations have a positive effect on individuals, administration, and judiciary. Firstly, it is the blessings for individuals because when the other two grounds, i.e. illegality and procedural propriety, fail to protect the people's legal interests, it steps in and protects their rights. These limitations will make the reviewing process easier, simpler, and straightforward. This will save the time, money and extra fatigue of the individuals. These limitations will also play an important role in checking and eliminating the administrative orders and actions that may consist of bad decisions i.e., misuse of the discretionary powers, e.g., decisions based on bad intention, malicious, arbitrary or of erroneous nature. Although it is difficult to review the case on this ground because the burden of proof is on the individual, it is still a valid check on the wide discretionary powers of the administration. These limitations will develop this principle and counter the allegations made against it for its vagueness and uncertainty.

Secondly, it will also curtail the reviewing powers of the judiciary. In Pakistan, the judicial interference in the administrative jurisdiction is always based on the Chief Justice of the supreme court of Pakistan, e.g., C.J. Chaudhry Iftikhar and C.J. Saqib Nisar take frequent actions against the orders of the administrative authorities. These suo Moto actions by these chief justices paralyzes the public bodied. The absence of these limitations will flood the judiciary with a number of review cases on this ground. It will result in an unnecessary bundle of cases that will affect the efficiency of the judiciary. These limitations will also stop judicial activism and further strengthen the theory of separation of powers. It will help develop crystal

clear decisions of the courts in review cases. It will also bring accuracy and uniformity in judicial review cases based on unreasonableness and irrationality, e.g., stop interfering with the cases involving public policies.

Thirdly, it will avoid unnecessary clashes between the judiciary and executive branches of the government. It will also build confidence in the administrative authorities in exercising their public powers. The Greek philosophers, including Plato and Aristotle, observe that “each thing or person has its proper sphere to overstep which is unjust”³².

These limitations will have a dual effect on the powers of the administrative authorities. Firstly, it will make the public powers more responsible and accountable because these limitations will clearly establish the range of their powers where they can freely exercise them. Secondly, the public bodies will not overstep their jurisdiction due to checks of the judiciary.

Recommendations

If these limitations are strictly followed both by the administrative authorities and judiciary in Pakistan, then it will not only develop cooperation and harmony among these departments but it will also result in the smooth running of the whole political and legal system of the state. Following are the recommendation:

1. The administrative system in Pakistan, maybe focused and overhauled. Especially the administrative officers who are engaged in exercising judicial or quasi-judicial powers and functions entrusted to them by the state. Lord Diplock says that, in deciding the cases involving the use of logic and rationality, the decision in such cases depends on a judge's training and experience. Therefore well experienced administrative officers may be posted at public positions where they are performing judicial or quasi-judicial functions otherwise, it will create a number of problems and hurdles in the development of the administration of justice.
2. The public officers who administer the administrative law that affect the rights and duties of the individuals may also be trained in law and justice in special judicial academies so that they become well equipped with the administrative cum judicial techniques.
3. Besides their technical experience and knowledge, the administrative officers may command constitutional law, especially fundamental rights. It is the violation of fundamental rights by the government officers that results in the writ petition i.e. judicial review of administrative actions.
4. Wednesbury Unreasonableness may be defined clearly by passing an Act, as the Australian Parliament passes it, i.e., “Administrative Decision (Judicial Review) Act 1977.” Proper legislation may be made to identify the limitation on the Wednesbury Unreasonableness.

5. The powers that are delegated to the administrative departments by the government may not be wide discretionary powers. They may specify the limits and jurisdiction of these delegated powers to avoid their misused, resulting in irrationality or unreasonableness.
6. The judiciary may also adopt the self-restraint policy in the above mentioned limitations of *Wednesbury* unreasonableness cases.
7. The decisions of the administrative bodies must be based on the relevant arguments and reasons that justify their decisions.

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