Module Detail	
Subject Name	**Political Science**
Paper Name	**Public Policy, Governance and Indian Administration**
Module Name/Title	**Control over administration : legislative, executive and judicial**
Pre-requisites	**Administration, Public Administration, Forms of Government**
Objectives	**To get an overview of three types of control over administration.**
Keywords	**Legislative control, Executive control, judicial control.**

Structure of Module / Syllabus of a module	
Control over administration: legislative, executive and judicial	**Need For Control Over Administrative Act; Types Of Control Over Administrative Act; How Legislature Exercises Control Over Administrative Act; How Executive Control Over Administrative Act; Judicial Review Of Administrative Act; Writs; Conclusion.**

2. Development Teams

Role	Name	Affiliation
Principal Investigator	**Prof. Ashutosh Kumar**	**Department of Political Science, Panjab University, Chandigarh**
Paper Coordinator	**Prof. Ramanjit Kaur Johal,** **Prof. Amit Prakash**	**Department of Public Administration, Panjab University, Chandigarh.** **Centre for Law and Governance, SSS, Jawahar Lal Nehru University, New Delhi.**
Content Writer/Author (CW)	**Dr. Vandana Ajay Kumar**	**Assistant professor, Dept. of laws, Panjab University, Chandigarh.**
Content Reviewer (CR)	**Prof. Swinder Singh**	**USOL, Panjab University, Chandigarh.**
Language Editor (LE)		

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Objectives

After going through this module you should be able to answers the following:

Need For Control over Administrative Act
Types of Control over Administrative Act
How Legislature Exercises Control Over Administrative Act
How Executive Control Over Administrative Act
Judicial Review of Administrative Act

Summary

This project comprehensively deals with the all possible aspects regarding the control over administration: legislative, executive and judicial. The legislative control is mainly exercised through the parliamentary committees; executive control over administration means the control exercised by the chief executive (political executive) over the functioning of bureaucracy. Such control is exercised in India and Britain by the cabinet and ministers (individually). The judicial control is exercised by way of judicial writs and judicial review. The power of judicial review of administrative action is inherent in our Constitutional scheme which is based on rule of law and separation of powers. It is considered to be the basic features of our Constitution, which cannot be abrogated even by exercising the Constituent power of parliament. It is the most effective remedy available against the administrative excesses.

CONTROL OVER ADMINISTRATION: LEGISLATIVE, EXECUTIVE AND JUDICIAL

> ***"****Power in a democratic society requires control, and the greater the power, the more need for control. How to vest power sufficient to the purposes in view and maintain adequate control without crippling authority is one of the historic dilemmas of popular government."*
>
> *L.D.White.*

The control over administration is necessary to check the dangers of bureaucratic power and facilitate correctives against despotic exercise of power by the public servants. The instruments of administrative control should blend the apparently conflicting interest. It should safeguards the rights and liberties of the people without curbing the power and discretion of the public servants.

Broadly speaking, there are two types of control over administrative action the internal control and the external control. The internal control operates from within the administrative machinery. It is inbuilt in administrative machinery therefore, it works automatically, spontaneously and constantly with the movement of the machinery. External control, on the other hand operates from the outside the administrative machinery. It is laid down by the Constitution of the country.

The techniques of **internal control** over administration when reproduced read as under :

Budgetary system
Personnel management
Efficiency survey
Professional standards
Administrative leadership
Hierarchical order
Enquiries and investigations
Annual Confidential Report

The **external control** over administration is exercised by the following three agencies :

(A) The Legislature
(B) The Executive
(C) The Judiciary

Text for Voice Narration	Chunk Text
External control over administration	The Legislature The Executive The Judiciary

As said earlier the internal control is inbuilt in the system and works naturally and automatically as the system moves. Therefore it is important to lay more emphasis on outside control (as prescribed in the syllabus).In a Representative democratic government, whether parliamentary or presidential, the legislature is the supreme organ of the government as it consists of the representatives of the people. It reflects the will of the people and acts as a custodian of the interests of the people. Hence, it exercises control over administration to hold it accountable and responsible.

1. The Legislative Control

In India we have Parliamentary system of government which is based on the principle of collective responsibility. The ministers are responsible to the parliament for their policies and actions. Thus, the legislative control over administration under such a system is only indirect, that is, through ministers. The officials (administrators) cannot be held directly responsible to the parliament. They remain behind the veil of ministerial responsibility and remain anonymous. Thus it is the minister who takes responsibility for the actions of the administrators working under his ministry/department.

The parliament exercises control over administration in the following ways.

i) General control over the policies and actions of the government through questions, discussions, motions and resolutions.
ii) Financial control through budget and audit.
iii) Detailed control over financial, administrative and legislative matters through committees.
The various technique or modes or tools of parliamentary control are as follows:-

Law Making

The principle function of the parliament is to make laws. The parliament lays down the policies of the government by making, enacting, altering , amending or repealing the laws. Parliamentary laws determine and condition the organisation, structure, powers, functions and procedures of the administration. However, the control exercised by the parliament through the law making process is in broad and general terms. The parliament makes laws in a skeleton form and authorises the executive to make detailed rules and regulations within the framework of the parent law. This is what is commonly known as delegated legislation or executive legislation or subordinate legislation. The rules and regulations thus made are laid before the parliament for its consideration.

Question Hour (Interpellations) : The first hour of every parliamentary sitting is reserved for this exercise .During this time, the MPs ask questions and the ministers usually give answers. The questions are of three kinds, viz. Starred, unstarred and short notice.

A **starred question** is one which is distinguished by an asterisk. It requires an oral answer and hence supplementary questions can follow.

An **unstarred question**, on the other hand, is one which is not distinguished by an asterisk. It requires a written answer and hence, supplementary questions cannot follow.

A short notice question is the one which is asked by giving a notice of less than ten days. It is answered orally.

Questions (or interpellations) are effective tools of legislative control over administration and keeps the civil service alert and on its toes. Earl Attlee, the former Prime Minister of Britain has rightly remarked "I always consider that question time in the House as one of the finest examples of real democracy. The effect of questions to the Minister and still more questions asked publicly in the House, is to keep the whole of the civil service on their toes." Similarly Hugh Gaitskell, has remarked " Anybody who has worked in a civil service department would agree with me that, if there is one major thing which leads civil servants to be excessively cautious, timid and careful and to keep records, which outside the civil service would be regarded as unnecessary, it is the fear of parliamentary questions."

Zero Hour

The zero Hour is not mentioned in the rules of procedure. This is an informal device through which the members of the Parliament can raise matters without any prior notice. The Zero Hour starts immediately after the Question Hour and lasts until the agenda for the day (i.e. regular business of the House) is taken up. In other words, the time gap between the Question Hour and the agenda is known as Zero Hour. It is an Indian innovation in the field of parliamentary procedures and has been in existence since 1962.

Half- an –hour Discussion

It is meant for raising a discussion on matters of public importance which has been subjected to lot of debate and the answer to which needs clarifications on a matter of fact. The speaker can allot three days in a week for such discussions. There is no formal notion or voting before the House.

Short Duration Discussion it is also known as two hour discussion as the time allotted for such discussion should not exceed two hours. The members of the Parliament can raise questions on neither a formal motion before the house nor voting. This device has been in existence since 1953.

Other Discussions: In addition to the above discussions, there are various other occasions available to the members of Parliament to raise discussions and debates to examine and to criticise the administration for its lapses and failures. These include the following :
Inaugural speech of the President (that is, Motion of Thanks)
Introduction of several bills for enactment of laws (i.e. debates on legislation)
Introduction and passing of resolutions on matters of public interest

Calling Attention motion: It is a notice introduced in the parliament by a member to call the attention of a minister to a matter of urgent public importance and to seek a reasonable statement from him on that matter. It is an Indian innovation in the parliamentary procedure.

Adjournment Motion: It is introduced in the Parliament to draw attention of the House to a matter of urgent public importance. This motion needs the support of 50 members to be admitted. As it interrupts the normal business of the House, it is regarded as an extraordinary device. It involves an element of censure against the government and hence Rajya Sabha is not permitted to make use of this device.

The discussion on an adjournment motion should last for not less than two hours and thirty minutes. The right to move a motion for an adjournment of the business of the House has the following limitations:-

It should raise a matter which is definite, factual and of urgent public importance;
It should cover one matter at a time;
It should be restricted to a specific matter of recent occurance and should not be framed in general terms;
It should not raise a question of privilege;
It should not revive discussion on a matter that has been discussed in the same session;
It should not deal with any matter which is sud- judiced and
It should not raise any question that can be raised on a distinct motion.

No Confidence Motion: Article 75 of the Constitution of India provides the council of Ministers shall be collectively responsible to the Lok Sabha. It means that the ruling party remains in office so long as it enjoys confidence of the majority of the members of the Lok Sabha and the members of the Lok Sabha can remove the ministry from office by passing the No confidence Motion. The motion needs the support of 50 members to be admitted.

Censure Motion A censure motion is different from a No Confidence Motion in the following respects :

Censure motion vs No confidence Motion

Censure Motion	No confidence Motion
It should state the reasons for its adoption in the Lok Sabha.	It need not state the reasons for its adoption in the Lok Sabha.
It can be moved against an individual minister or a group of ministers or the entire council of ministers.	It can moved against the entire council of ministers.
It is moved for censuring the council of ministers for specific policies and actions.	It is moved to ascertain the confidence of Lok Sabha in the Council of Ministers.
If it is passed in the Lok Sabha, the council of ministers need not resign from the office.	If it is passed in the Lok Sabha the council of ministers must resign from office.

ii) Budgetary System : This is most important and an effective technique of parliament control over administration. The parliament controls the revenues and expenditures of the government through enactment of the budget. It is the ultimate authority to sanction the raising and spending of government funds. It can criticise the policies and actions of the government and point out the lapses and failures of administration during the process of enactment of the budget. Unless the Appropriation Bill and Finance Bill are passed, the executive cannot incur expenditure and collect taxes respectively.

iii) Audit System and Control through Committees: This is an important tool of parliamentary control over administration. The Comptroller and Auditor General of India [CAG], on behalf of the parliament, audits the accounts of government and submits an annual 'Audit Report' about the financial transactions of the government. The report of CAG highlights the improper, illegal, unwise, uneconomical and irregular expenditures of the government. The CAG is an agent of the parliament and is responsible only to it (i.e. Parliament). Thus the financial accountability of the government to the Parliament is secured through the Audit Report of the CAG. The work done by the Parliament in modern times is not only varied in nature, but considerable in volume. The time at its disposal is limited. It cannot, therefore, give close consideration to all the legislative and other matters that come up before it. A good deal of its business is, therefore, transacted by what are popularly called the parliamentary Committees.

Ad hoc and Standing Committees : Parliamentary Committees are of two kinds: Ad hoc Committees and the Standing Committees. Ad hoc Committees are appointed for a specific purpose and they cease to exist when they finish the task assigned to them and submit a report. Some of the principal Ad hoc Committees are the Select and Joint Committees on Bills, the Railway Convention Committee, the Committees on the

Draft Five Year Plans and the Hindi Equivalents Committee. Besides Ad hoc Committees each House of Parliament has Standing Committees like the Business Advisory Committee, the Committee on Petitions, the Committee of Privileges and the Rules Committee, etc.

Other Committees : Of special importance is yet another class of Committees which act as Parliament's 'Watch Dogs' over the executive. These are the Committees on Subordinate Legislation, the Committee on Government Assurances, the Committee on Estimates, the Committee on Public Accounts and the Committee on Public Undertakings and Departmentally Related Standing Committees (DRSCs). The Committee on Estimates, the Committee on Public Accounts, the Committee on Public Undertakings and DRSCs play an important role in exercising a check over governmental expenditure and Policy formulation.

COMPOSITION AND FUNCTIONS OF THE COMMITTEES

Select and Joint Committees : When a Bill comes up before a House for general discussion, it is open to that House to refer it to a Select Committee of the House or a Joint Committee of the two Houses. A motion has to be moved and adopted to this effect in the House in which the Bill comes up for consideration. In case the motion adopted is for reference of the Bill to a Joint Committee, the decision is conveyed to the other House requesting them to nominate members of the other House to serve on the Committee. The Select or Joint Committee considers the Bill clause by clause just as the two Houses do. Amendments can be moved to various clauses by members of the Committee. The Committee can also take evidence of associations, public bodies or experts who are interested in the Bill. After the Bill has thus been considered the Committee submits its report to the House. Members who do not agree with the majority report may append their minutes of dissent to the report.

Committee on Estimates : This Committee comprises of 30 members elected by the Lok Sabha every year from amongst its members. A Minister is not eligible for election to this Committee. The term of the Committee is one year. The main function of the Committee on Estimates is to report what improvements in organisation or administrative reforms consistent with the policy underlying the estimates may be effected and to suggest remedies in order to bring about efficiency and economy in administration. From time to time the Committee selects such of the estimates pertaining to a Ministry or a group of Ministries or the statutory and other Government bodies as may seem fit to the Committee. The Committee also examines matters of special interest which may arise or come to light in the course of its work or which are specifically referred to it by the House or the Speaker.

Committee on Public Undertakings : The Committee on Public Undertakings consists of 15 members elected by the Lok Sabha and 7- members of Rajya Sabha are associated with it. A Minister is not eligible for election to this Committee. The term of the Committee is one year.

The functions of the Committee on Public Undertakings are to examine the reports and accounts of Public Undertakings; to examine the reports, if any, of the Comptroller and Auditor General on the Public Undertakings; to examine in the context of the autonomy and efficiency of the Public Undertakings whether the affairs of the Public Undertakings are being managed in accordance with sound business principles and prudent commercial practices; and such other functions vested in the Committee on Public Accounts and the Committee on Estimates in relation to the Public Undertakings as are not covered by clauses (a), (b) and (c) above and as may be allotted to the Committee by the Speaker from time to time.

The Committee does not, however, examine matters of major Government policy and matters of day-to-day administration of the Undertakings.

Committee on Public Accounts : This Committee consists of 15 members elected by the Lok Sabha and 7 members of the Rajya Sabha . A Minister is not eligible for election to this Committee. The term of the Committee is one year.

The main duty of the Committee is to ascertain whether the money granted by Parliament has been spent by Government "within the scope of the Demand". The Appropriation Accounts of the Government of India and the Audit Reports presented by the Comptroller and Auditor General mainly form the basis for the examination of the Committee. Cases involving losses, nugatory expenditure and financial irregularities come in for severe criticism by the Committee. The Committee is not concerned with questions of policy. It is concerned only with the execution of the policy laid down by Parliament and its results.

Business Advisory Committee (Lok Sabha) : The Business Advisory Committee of Lok Sabha consists of 15 members including the Speaker who is the ex-officio Chairman. The members are nominated by the Speaker. Almost all sections of the House are represented on the Committee as per the respective strength of parties in the House.

The function of the Committee is to recommend the time that should be allotted for the discussion of such Government legislative and other business as the Speaker, in consultation with the Leader of the House, may direct to be referred to the Committee. The Committee, on its own initiative, may also recommend to the Government to bring forward particular subjects for discussion in the House and recommend allocation of time for such discussions. The decisions reached by the Committee are always unanimous in character and representative of the collective view of the House. The Committee generally meets at the beginning of each Session and thereafter as and when necessary.

Committee on Private Members' Bills and Resolutions (Lok Sabha) : This Committee consists of 15 members and the Deputy Speaker as its Chairman when nominated as a member of the Committee. The Committee is nominated by the Speaker. The functions of the Committee are to allot time to Private Members' Bills and Resolutions, to examine Private Members' Bills seeking to amend the Constitution before their introduction in Lok Sabha, to examine all Private Members' Bills after they are introduced and before they are taken up for consideration in the House and to classify them according to their nature, urgency and importance into two categories namely, category A and category B and also to examine such Private Members' Bills where the legislative competence of the House is challenged. The Committee, thus, performs the same function in relation to Private Members' Bills and Resolutions as the Business Advisory Committee does in regard to Government Business. The Committee holds office for a term not exceeding one year.

Rules Committee (Lok Sabha) : The Rules Committee consists of 15 members.The Speaker is the ex-officio Chairman of the Committee. The members are nominated by the Speaker. The Committee considers matters of procedure and conduct of business in the House and recommends any amendments or additions to the Rules of Procedure and Conduct of Business in Lok Sabha that are considered necessary.

Committee of Privileges (Lok Sabha) : This Committee consists of 15 members nominated by the Speaker. The function is to examine every question involving breach of privilege of the House or of the members of any Committee thereof referred to it by the House or by the Speaker. It determines with reference to the facts of each case whether a breach of privilege is involved and makes suitable recommendations in its report.

Committee on Papers Laid on the Table (Lok Sabha) : This Committee consists of 15 members nominated by the Speaker. Its function is to examine all papers laid on the Table of the House by Ministers (other than those which fall within the purview of the Committee on Subordinate Legislation or any other Parliamentary Committee) and to report to the House whether there has been compliance of the provisions of the Constitution, Act, rule or regulation under which the paper has been laid, whether there has been any

unreasonable delay in laying the paper, if there has been such delay, whether a statement explaining the reasons for delay has been laid on the Table of the House and whether those reasons are satisfactory, whether both the Hindi and English versions of the paper have been laid on the Table, whether a statement explaining the reasons for not laying the Hindi version has been given and whether such reasons are satisfactory, such other functions in respect of the papers laid on the Table as may be assigned to it by the Speaker from time to time.

Committee on Petitions (Lok Sabha) : The Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. The function of the Committee is to consider and report on petitions presented to the House. Besides, it also considers representations from individuals and associations, etc. on subjects which are not covered by the rules relating to petitions and gives directions for their disposal.

Committee on Subordinate Legislation (Lok Sabha) : The Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. The Committee scrutinizes and reports to the House whether the powers to make regulations, rules, sub-rules, by-laws etc. conferred by the Constitution or delegated by Parliament are being properly exercised by the executive within the scope of such delegation.

Committee on Government Assurances (Lok Sabha) : This Committee consists of 15 members nominated by the Speaker. A Minister is not nominated to this Committee. While replying to questions in the House or during discussions on Bills, Resolutions, Motions etc., Ministers at times give assurances or undertakings either to consider a matter or to take action or to furnish the House further information later. The functions of this Committee are to scrutinize the assurances, promises, undertakings etc. given by Ministers from time to time and to report to Lok Sabha on the extent to which such assurances etc. have been implemented and to see whether such implementation has taken place within the minimum time necessary for the purpose.

Committee on Absence of Members from the Sittings of the House (Lok Sabha) : The Committee consists of 15 members who hold office for one year. The members are nominated by the Speaker. This Committee considers all applications from members for leave of absence from the sittings of the House and examines every case where a member has been absent for a period of 60 days or more, without permission, from the sittings of the House. In its report it makes recommendations with respect to each case as to whether the absence should be condoned or leave applied granted or whether the circumstances of the case justify that the House should declare the seat of the member vacant.

Joint Committee on Offices of Profit : This Committee consists of 15 members. Ten members are elected from Lok Sabha and five from Rajya Sabha. The Committee is constituted for the duration of each Lok Sabha. The main functions of the Committee are to examine the composition and character of the Committees appointed by the Central and State Governments and to recommend what offices should disqualify and what offices should not disqualify a person for being chosen as, and for being, a member of either House of Parliament under article 102 of the Constitution.

Committee on the Welfare of Scheduled Castes and Scheduled Tribes : The Committee on the Welfare of Scheduled Castes and Scheduled Tribes consists of 20 members elected by the Lok Sabha and 10 members of Rajya Sabha are associated with it. The term of the Committee is one year. A Minister is not eligible for election to this Committee. The main functions of the Committee are to consider all matters concerning the welfare of the Scheduled Castes and Scheduled Tribes, falling within the purview of the Union Government and the Union Territories, to consider the reports submitted by the National Commission for Scheduled Castes and Scheduled Tribes and to examine the measures taken by the Union Government to secure due representation of the Scheduled Castes and Scheduled Tribes in services and posts under its control.

Railway Convention Committee : The Railway Convention Committee is an ad-hoc Committee. It consists of 18 members. Out of these, 12 members are from Lok Sabha nominated by the Speaker and 6 members are from Rajya Sabha nominated by the Chairman. By convention the Minister of Finance and the Minister of Railways are members of the Committee. Besides this, Ministers of State in the Ministry of Finance and Ministry of Railways respectively are also its members.

The main function of the Committee is to review the Rate of Dividend payable by the Railways undertaking to General Revenues as well as other ancillary matters in connection with the Railway Finance vis-a-vis the General Finance and make recommendations thereon. The Railway Convention Committee, 1949 was the first Committee after independence. This Committee and subsequent Committees confined themselves to determining the rate of dividend payable by Railways to General Revenues. Since 1971 the Railway Convention Committees have been taking up subjects for examination and report which have a bearing on the working of Railways.

Committee on Empowerment of Women : This Committee came into being on 29th April, 1997, as a consequence of identical Resolutions adopted by both the Houses of Parliament on the occasion of International Womens' Day on 8th March, 1996. The Committee consists of 30 members, 20 nominated by the Speaker from amongst the members of Lok Sabha and 10 nominated by the Chairman, Rajya Sabha from amongst the members of the Rajya Sabha. The term of the Committee is of one year. The Committee have been primarily mandated with the task of reviewing and monitoring the measures taken by the Union Government in the direction of securing for women equal status and dignity in all matters. The Committee would also suggest ne corrective measures for improving the status/condition of women in respect of matters within the purview of the Union Government. Besides, another important function of the Committee is to examine the measures taken by the Union Government for comprehensive education and adequate representation of women in Legislative bodies/services and other fields. The Committee would also consider the report of the National Commission for Women. The Committee may also examine such other matters as may seem fit to them or are specifically referred to them by the Lok Sabha or the Speaker and the Rajya Sabha or the Chairman, Rajya Sabha.

Departmentally Related Standing Committees: The system of Department Related Standing Committees came into being in April, 1993. These Committees cover under their jurisdiction all the Ministries/ Departments of the Government of India.

These Committees are as under:

Name of the Committee

1. Committee on Commerce
2. Committee on Home Affairs
3. Committee on Human Resource Development
4. Committee on Industry
5. Committee on Science & Technology, Environment & Forests
6. Committee on Transport, Culture and Tourism
7. Committee on Agriculture
8. Committee on Information Technology
9. Committee on Defence
10. Committee on Energy
11. Committee on External Affairs
12. Committee on Finance
13. Committee on Food, Civil Supplies and Public Distribution

14. Committee on Labour and Welfare
15. Committee on Petroleum & Chemicals
16. Committee on Railways
17. Committee on Urban and Rural Development

Out of the 17 Committees, 6 Committees (Sl. No. 1 to 6) are serviced by the Rajya Sabha Secretariat and 11 Committees (Sl. No. 7 to 17) by the Lok Sabha Secretariat. Each of these Standing Committees consists of not more than 45 members—30 to be nominated by the Speaker from amongst the members of Lok Sabha and 15 to be nominated by the Chairman, Rajya Sabha from amongst the members of Rajya Sabha. Again the Minister is not eligible to be the part of these Committees.

The term of members of these Committees is one year. With reference to the Ministries/Departments under their purview, the functions of these ommittees are:

Consideration of Demands for Grants : Examination of Bills referred to by the Chairman, Rajya Sabha or the Speaker, Lok Sabha as the case may be.

Consideration of Annual Reports : Consideration of national basic long term policy documents presented to the House and referred to the Committee by the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be. These Committees do not consider matters of day-to-day administration of the concerned Ministries/Departments.

The newly constituted department related Standing Committee System is an effective method w.r.s.t the Parliamentary surveillance over administration. With the emphasis of their functioning to concentrate on long-term plans, policies and the philosophies guiding the working of the Executive, these Committees will be in a very privileged position to provide necessary direction, guidance and inputs for broad policy formulations and in achievement of the long-term national perspective by the Executive.

2. EXECUTIVE CONTROL

Executive control over administration means the control exercised by the chief executive (political executive) over the functioning of bureaucracy. Such control is exercised in India and Britain by the cabinet and ministers (individually).

In parliamentary government the cabinet is collectively responsible to the parliament for its policies and actions. Each minister is also individually responsible for the acts of omission and commission in his ministry/department. In other words, ministerial responsibility is the basic feature of the parliamentary government. For this very reason the political executive (cabinet and ministers) exercise control over administration. Unlike the legislative control which is general, periodical, informational and reportive, the executive control is fuller in content, constant, continuous, simulative, corrective and directive in nature.

The executive exercises control over administration through following means:.

i. Policy Making
ii. Budgetary System
iii. Personnel Management & Control
iv. Delegated Legislation
v. Civil Services Code
vi. Staff Agencies
vii. Appeal to Public Opinion

Political Direction (Policy-making) : In India, the cabinet formulates administrative policies and enjoys the power of direction, supervision and coordination with regard to its implantation. The minister, who is incharge of one or more departments, lays down the departmental policy and directs, supervises and coordinates its implementation by the administrators. Thus, through political direction, the minister controls the operations of administrative agencies working under his ministry/department(s). The department officials are directly and totally responsible to the minister. In the USA, the same function is performed by the President and his secretaries.

Budgetary System : The executive controls the administration through budgetary system. It formulates the budget, get it enacted by the parliament, and allocates the necessary funds to the administrative agencies to meet their expenditure. In all such activities, the ministry of finance (which is the central financial agency of the Government of India) plays an important role. It exercises financial control over administration in the following ways :-

1. Approval of policies and programmes in principle.
2. Acceptance of provision in the budget estimates.
3. Sanctioning expenditure subject to the powers which are delegated.
4. Providing financial advice through the integrated Financial Advisor.
5. Reappropriation of grants (i.e. transfer of funds from one sub-head to another).
6. Internal audit system.
7. Prescribing a financial code to be followed by the spending authorities.

Appointment and Removal (Personnel Management and Control) : This is the most effective means of executive control over administration. The executive plays an important role in personnel management and control and enjoys the power of appointment and removal of top administrative. In this function, the executive (in India) is assisted by the Department of Personnel and Training, the ministry of Finance, and the Union Public Service Commission. The Department of Personnel and Training is the central personnel agency in India and plays a major role in personnel management and control. At the highest level, the ministers play an important role in the selection and appointment of secretaries and heads of departments. Thus they (i.e. ministers) exercise full control over the administration of departments under their charge through such appointees.
In the USA also, though the President has to seek the approval of senate for effecting appointments to top posts, he has the exclusive power of removing them from office. The office of Personnel Management (OPM) in the US plays an important role in personnel management and control.

Delegated Legislation : Also known as the executive legislation, it is an important tool in the hands of the executive to exercise control over administration. The Parliament makes laws in skeleton forms and authorises the executive to fill in minor details. Therefore, the executive makes rules, regulations and bye-laws which have to be observed by the administrators in execution of the law concerned.

Ordinances : The Constitution of India authorises the chief executive, that is, the President to promulgate ordinances during the recess (interval) of Parliament to meet situation demanding immediate action. An ordinance is as authoritative and powerful as an act of Parliament and hence, governs the functioning of administration.

Civil Service Code : The executive has prescribed a civil service code to be observed and followed by the administrators in the exercise of their official powers. It consists of a set of conduct rules which prevent the administrators from misutilising their personal ends. The important among such rules in India are as follows :-

All – India services(conduct) rules, 1954
Central Civil Services (conduct) rules, 1955
Railway Services (conduct) rules, 1956.

They deal with various things like loyalty to the state, obeying the official orders of the superiors, political activities of civil servants, financial transactions of civil servants, material restrictions, and others.

Staff Agencies : The executive also exercises control over administration through staff agencies.some of the important staff agencies in India are the Department of Administrative Reforms, the Planning Commission, the cabinet secretariat and the Prime Minister's office. Mooney said that a staff agency is "an expansion of the personality of the executive. It means more eyes, more ears and more hands to aid him in forming and carrying out his plans." Thus, the staff agencies exercise influence and indirect control over the administrative agencies and play an important role in coordinating their policies and programmes.

Appeal to Public Opinion : The administrative system,(i.e. civil service or bureaucracy) whether in the USA or the UK or India, is status quo oriented and hence resist change. It does not receive new policies, plans, programmes and projects formulated by the executive with positive mindedness. In fact, the various organs of the administrative machinery, the words of Pfeiffer and Presthus, "seek to strengthen their position *vis a vis* other agencies, and the executive, by alliances with legislature and pressure groups, as well as by calculated support building campaigns directed at the general public. They develop vested interest not only in programme areas, but equally in established ways of doing things, which enhance the self-consciousness and strategic position of the bureaucracy." Due to this, the bureaucracy resists new programmes and methods as they threaten its (bureaucracy's) strong position. Under such circumstances, the executive appeals to the public opinion.

3. JUDICIAL CONTROL

i. Power of Judicial Review
ii. Extra Ordinary Remedies : Writs

The judicial control over administration emanates from the concept of 'rule of law' A.V. Dicey's the British constitutional lawyer, in his famous book *Introduction to the study of the Law of the Constitution* gave a classic exposition of this concept as follows.

"No man is punishable or can be lawfully 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... no man is above the law, but ... 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... every official from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The general principles of Constitution... are with us the result of judicial decision determining the rights of private persons in particular cases brought before the courts." Thus according to Dicey, the rule of law signifies three different but inter related concept.

Rule of Law :

(i) **The supremacy of law** : Supermacy of law is the first principle of rule of law. It signifies the predominance of regular law as opposed to prevalence of wide, arbitrary, discretionary power it negates the existence- arbitrariness and any form of sovereign prerogative

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(ii) **Equality before law:** Equality before the law, that is, equal subjection of all citizens (rich or poor, high or low, official or non- official) to the ordinary law of the land administered by the ordinary law courts.

(iii) **Predominance of Legal Spirit :** The primacy of the rights of the individual, that is, the Constitution, is the result of the rights of the individual as defined and enforced by the courts of law rather than the Constitution being the source of the individual rights. Thus, the rights of the citizens of Great Britain flow from the judicial decisions, not from the Constitution. The Indian Constitution has not accepted the maxim that "The king can do no wrong" and all administration authorities are subject to be jurisdiction of ordinary civil courts of the land. Moreover no person can be deprived of his life and personal liberty, except according to be procedure established by law. Additionally, all rules, regulations bye- laws etc. are covered by the term law and can be challenged before the court which can strict them down as unconstitutional.

The judiciary exercises control over administration through the following modes:

1) Power Of Judicial Review : It is a process in which courts can pronounce upon the validity of an action taken by executive. Judicial Review is inherent in the administrative process as it is basic structure of constitution and thus cannot be abrogated even by amending the Constitution. It is the power of the courts to examine the legality and constitutionality of administrative acts. On examination, if they are found to be violative of the constitution (ultra vires), they can be declared as illegal, unconstitutional and invalid by the court. ".[1]

Doctrine of Ultra Vires : Traditionally, the basis of judicial control of acts and decisions of public authorities both under common law and Indian laws has been doctrine of ultra vires. The term ultra vires is derived from two words ultra and vires. Ultra means beyond and vires means power. Precisely speaking it means any act or decision by administrative authority must be exercised within the limit prescribed by law. Any act/decision which is beyond the power shall be ultra vires and hence void-ab-initio.

The role of the Courts is to keep bodies within their allocated authority or jurisdiction. As has been stated by two scholars. "The Jurisdictional principle is in fact the root principle of British Administrative Law".[2] The same is true of the Indian Administrative Law which closely follows its counterpart in Britain. The role of the courts is to keep bodies within their allocated authority or jurisdiction. Excess or abuse of statutory jurisdiction is quashed, or prohibited as *ultra vires*. The authority may be directed to act according to law, or not to act in excess of its jurisdiction. Acting *ultra vires* and acting without jurisdiction have essentially the same meaning.[3]
In modern times, the *ultra vires* doctrine has been found to be inadequate. For example, apart from illegality, judicial review is also available now on the ground of irrationality. The two grounds—illegality and irrationality—stand apart from each other. This means that the authority ought not to act lawlessly but also not act arbitrarily or whimsically. Then how can one apply the principle *of ultra vires* when what is complained of is non-exercise of power by an administrative authority. There are also difficulties in using *ultra vires* in respect of non-statutory bodies.[4] In some situations, judicial review applies not only to the exercise of non-statutory powers but even to bodies which are non-governmental in nature. The fact thus is that at present judicial review has gone much ahead of the traditional *ultra vires* doctrine in the sense of looking only to the terms of the parent statute.

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[1] P*ublic administration by Laxminath available on net.*
[2] Wade and Schwartz, *Legal Control of Government, pg* 210.
[3] ". . . the concept of jurisdiction in Administrative Law has become indistinguishable from the concept of *ultra vires".* Lord Diplock, *Judicial Control of Government,* (1979) 1 MLJ cxl at cxliv.
[4] Lord Woolf, *Droit Public – English Style*, (1995) *Public Law*, 57.

Today the court also raises such questions as: Is the administrative action reasonable, or discriminatory, or arbitrary? Is the action based on relevant or irrelevant considerations? Is it *mala fide?* And, now, the doctrines of promissory estoppel, legitimate expectation and proportionality are also appearing on the horizon to control administrative action.

Since Courts occupy a key position in the scheme of Indian Administrative Law, an important question which needs to be discussed is : what are the techniques available to the individual to bring his complaint or grievance against an administrative action within the cognisance of the Courts? What tools, subject to what conditions, and on what basis, will the Courts employ to afford relief and redress to the complainant? In what cases do the courts feel that redress to a complainant is called for? What reliefs can the Courts give?

Constitutional Recognition: Power of Judicial review of Administrative action : The Constitution of India itself incorporates a number of provisions for promoting judicial control of the Administration. Writs are issued by the Supreme Court and the High Courts under the provisions of Articles 32 and 226 of the Constitution respectively. Under Article 227 of the Constitution, a High Court exercises the power of supervision over tribunals and other adjudicatory bodies within its territorial jurisdiction. Provision for appeal to the Supreme Court from decisions of the tribunals and courts has been made by Article 136 of the Constitution. Beside these constitutional provisions, several statutes confer power on the courts to control actions of the Administration.

The effect of this is that no administrative action can be held free from judicial review. The power of judicial review guaranteed by these constitutional provisions is very broad and comprehensive but it is for the courts to lay down rules for self-limitation of their own power. This power cannot be cut down by legislation as it is conferred by the Constitution which no legislation can override.

In a case before Supreme Court, it was held, that however, the High Court exercising writ jurisdiction does not sit in judgment over the decision of the State Govt. like an appellate authority. If the High Court finds that the decision arrived at by the State Government was flawed in any way, then it should, after laying down the necessary principles or guidelines or issuing directions, direct the State Government to reconsider the case.

Since the inauguration of the Constitution, the courts have used their constitutional powers of judicial review in two ways. On the one hand, the Supreme Court and the High Courts have sought to impose some limitations on their own broad discretion to issue writs by evolving such concepts as *res judicata,* laches exhaustion of alternative remedy. This has been done to keep the number of writ petitions within manageable limits. The application of these concepts to specific factorial situations remains flexible and is not rigid. But, on the other hand, the courts have expanded the scope of judicial review of administrative action by:-

-Expanding the scope and ambit of natural justice;
-Expanding the concept of 'tribunals' for the purpose of Article 136;
-Liberalising the concept of locus standii to file writ petitions;
-Applying the writ system to non-statutory, and even to non-official, bodies;
-Developing the concept of moulding of remedies;
-Expanding the scope of the writs *of certiorari* and *mandamus;*
-Liberally interpreting Articles 32 and 226; and most importantly
-Promoting the concept of public interest litigation.

Judicial Review & Judicial Control : The term 'judicial review' has a restrictive connotation as compared to the term 'judicial control'. Judicial review is 'supervisory', rather than 'corrective', in nature. Judicial review is denoted by the writ system which is provided under Articles 32 and 226 of the Constitution. Judicial control, on the other hand, is a broader term. It denotes a much broader concept and includes judicial review within itself. Judicial control comprises of all methods through which a person can seek relief against the Administration through the medium of the courts, such as, appeal, writs, declaration, injunction, damages statutory remedies against the Administration.

The limited scope of judicial review, succinctly put, is:

Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies.A petition for a judicial review would lie only on certain well defined grounds.An order passed by an administrative exercising discretion vested in it, cannot be interfered in judicial review unless it is shown that exercise of discretion itself is perverse or illegal.

A mere wrong decision without anything more is not enough to attract the power of judicial review; the supervisory jurisdiction conferred on a Court is limited to seeing that the Tribunal functions within the limits of its authority and that its decisions do not occasion miscarriage of justice.

The Courts cannot be called upon to undertake the government duties and functions. The Court shall not ordinarily interfere with a policy decision of the State. Social and economic belief of a judge should not be invoked as a substitute for the judgment of the legislative bodies.

Appeals : The statute(i.e. law or act) may itself provide that in a specific type of administrative act, the aggrieved citizen will have the right of appeal to the courts. Under such circumstances, the statutory appeal is possible. Again another important aspect about power of Judicial review is in judicial review the court is not so much concerned with the correctness of decision or the merits of the case as the courts do not act as courts of appeal in such cases; rather the court is only concerned of tribunal has acted within its power and whether or not it has followed the proper procedure. Again if the discretion vested in an executive is exercised in an arbitrary, vague and fanciful manner it becomes the duty of the courts to step in to correct the wrong as in law there is nothing like unfettered discretion. It must be based on reasons and sound judicial principle. In other words there is no such discretion which can not be reviewed by court of law.

Suits Against Government : In India, Article 300 of the Constitution governs the suability of the state. It states that the Union Government can be sued, subject to the provisions of the law made by the Parliament and the state legislature respectively. The state is suable in contracts. This means that the contractual liability of the union government and the State Government is same as that of an individual under the ordinary law of contract. However, in case of torts, the position is different (a tort is a wrongful action or injury for which a suit for damages lies). In this regard, a distinction is made between the sovereign and non-sovereign functions of the state. The state, for the tortuous acts of its servants, can be sued only in case of its non-sovereign functions of the state. The state, for the tortuous acts of its servants, can be sued only in case of its non-sovereign functions but not in case of its sovereign functions.

In Britain, there has been traditional immunity of the state(i.e. Crown) from any legal liability for any action. Suits against government in contract or tort were severely restricted. Such restrictions were relaxed and the situation was improved by the Crown Proceedings Act of 1947. The present position in Britain is that the State can be sued for the wrongful acts of its officials whether in contracts or torts, with some exceptions.

In the USA, subject to few exceptions, the state cannot be sued in cases pertaining to torts. In other words, the State (either federal government or state government) is immune from the tortuous liability of its servants, except in few cases.
In France, where the system of 'Droit Administratif' prevails, the state assumes responsibility for the official actions of its servants and compensate the citizens for any loss suffered by them. The aggrieved citizens can directly sue the state in the 'administrative courts' and get the damages awarded and the affected individuals gets just and fair treatment.

Suits against public official : In India, the President and the state governors enjoy personal immunity from legal liability for their official acts. During their term of office, they are immune from any criminal proceedings, even in respect of their personal acts. They cannot be arrested or imprisoned. However, after giving two months' notice, civil proceedings can be instituted against them during their term of office in respect of their personal acts. The ministers do not such immunities and hence they can be sued in ordinary courts like common citizens for crimes as well as torts.
Under the judicial officer's Protection Act of 1850, the judicial officers are immune from any liability in respect of their acts and hence cannot be sued.
The civil servants are conferred personal immunity from legal liability for official contracts by the Article 299 of the Constitution of India. In other cases, the liability of the officials is the sane as of any ordinary citizen. Civil proceedings can be instituted against them for anything done in their official capacity after giving a two months' notice. As tegards criminal liabilities, proceedings can be instituted against them for acts done in their official capacity with prior permission from the government.
The Monarch in Britain and the President in the USA enjoy immunity from legal liability. The legally accepted phrase in Britain is, 'The King can do no wrong.' Hence he cannot be sued in any court of law.

ii) Extraordinary Remedies: Writs : These consist of the following six kinds of writs issued by the courts., 1-5 are provided in the Constitution, 6th one is an equitable relief and is available under The Specific Relief Act. Following are the writs namely :-

Habeas corpus
Mandamus
Prohibition
Certiorari
Quo Warranto
Injuntion

Habeas corpus
'Habeas corpus' literally means 'Have (or bring) the body. By issuing this writ, the court orders a person of authority who has detained another person to bring him before the court, so that the court may decide on the validity and justification of his detention .Thus, this is a prompt and effective remedy against all norms of unlawful restraint. The object of this writ is not to punish the detaining authority, but to free the person who has been unlawfully detained.

This remedy is available against anybody- and not necessarily a police official- who has unlawfully detained another person. In Add. District Magistrate, Jabalpur v. Shivkant Shukla, also known as the Habeas Corpus case (AIR 1976 SC 1207), the Supreme Court observed as follows:
"The writ of habeas corpus is a process for securing the liberty of the subject by affording an effective means of immediate relief from unlawful or unjustifiable detention, whether in prison or private custody."

Apart from the prisoner himself, any other interested person, as for instance, his wife, parent, sister, or even a friend, can apply for this writ (Dushyant Somal v. Sushma Somal, AIR 1981 SC 1026), but not a total stranger (Chiranjit Lal v. Union Of India, AIR 1951 SC 41).

Delay in applying for this writ is not, by itself, a good ground for refusing relief. As the right of personal liberty is the most cherished right in any civilized society, it cannot be defeated by any length of time. As unlawful detention is also a continuing wrong, the question of delay is not very relevant in such cases.

Normally, the relief afforded by this remedy is the person's freedom and it is open to him to file a separate civil suit for compensation for wrongful detention. However, the court hearing the writ petition also has the jurisdiction to award compensation in fit cases. As observed by the Supreme court, one effective way in which the mandate of Art. 21 (right to life and personal liberty) can be secured is to penalise the violator by monetary compensation in the writ itself (Rahul Shah v. State Of Bihar, AIR 1983 SC 1086.

Mandamus

Mandamus literally means 'We command'. It is an order issued by a court to a public authority directing it to perform a public duty imposed upon it by the law. It may be directed to any government officer, subordinate court, corporation of other public authority, calling upon it to do or to refrain from doing, any specific act which such authority is under obligation to do or refrain from doing. The object of this writ is to ensure that justice is done. This remedy can be invoked in all cases where the aggrieved party does not have any other remedy in the matter.

As a writ of *mandamus* is an extraordinary remedy, the court has full discretion to grant the same or to refuse relief to the applicant. This discretion is, however, to be exercised in a fair and reasonable manner based on well-established legal principles. The courts have also insisted that before this writ is applied for, the applicant must have 'demanded justice' and such demand must have been met with a refusal, express or implied.

This writ has been allowed against courts and tribunals, against the government and its officers and against state-owned or state-controlled universities and other educational institutions. If any authority falls within the definition of state under Art. 12 of the Constitution, the writ of mandamus can be issued if the circumstances justify its issue.

Certiorari

Certiorari literally means, 'to certify' it is a writ whereby superior court (the Supreme Court and the High Courts in India) exercise supervisory jurisdiction over inferior courts, tribunals, boards and administrative authorities exercising judicial or quasi-judicial functions. The writ calls for productions of all records and proceedings, so that the same may be investigated and the legality and validity of an order passed by the inferior authority may be examined.

A writ of certiorari can be issued on the following grounds :

The writ can be issued when the judicial or quasi-judicial authority

- has acted without jurisdiction, or
- has acted in excess of its jurisdiction, or
- has failed to exercise jurisdiction vested in it by law.

This remedy is also available when there is an error of law which is apparent on the face of the record (in the order passed by the lower court of tribunal).

Lastly, the writ is issued when the inferior body has not compiled with the rules of natural justice.

Most importantly,when the Supreme Court or a High Court issues a writ of certiorari(Art. 32 or Art. 226, respectively) , it acts in a supervisory and not in an appellate capacity. Such a court cannot re-examine the facts and circumstances of the case or substitute its own judgement in place of that of the lower court or tribunal.

Prohibition

The writ of prohibition is preventive relief. It prevents the a lower court or tribunal or a quasi- judicial authority from exceeding its jurisdiction or from exercising jurisdiction not vested in it. Thus, when a sub-ordinate court or tribunal proceeds to hear a matter over which it has no jurisdiction , the Supreme Court or

High Court can issue this writ to prevent it from usurping jurisdiction and thus keep it within its jurisdictional limits.

The following are the grounds on which the writ of prohibition can be issued :

- It is issued in all cases where the inferior authority has acted without jurisdiction or in excess of its jurisdiction.
Thus, if a tax authority proposes to impose tax on an a commodity that is statutorily exempt from tax, this writ can be issued.
- This writ can also be issued in cases where there has been a violation of the rule of natural justice.
- This writ can be prayed for if the action of the authority concerned infringes the fundamental rights of the applicant.
- A petition for this writ will also lies when the authority in question has committed an error of law which is apparent on the record.

Quo Warranto
Quo warranto literally means 'By what authority' or 'what is your authority'. It is a judicial remedy directed against the occupier of public office, calling upon such a person to show under what authority he is holding such office. It thus protects public interest by preventing and curing invasion or abuse of a public office by a person not qualified to hold the same.

In practice, this writ provides an effective remedy when a person who is not qualified to do so, is holding a public office like that of Minister, Judge, Advocate-General, Mayor, Chancellor of a University or the Speaker of a house of legislature.

Injunction
It is issued by the court asking a person to do a thing or refrain from doing it. Thus, it is of two kinds viz mandatory and preventive. The mandatory injunction resembles the writ of Mandamus but it is different. As put by M.P. Sharma, "Madamus cannot be issued against private persons while the injunction is primarily a process of private law and only rarely a remedy in administrative law. Mandamus is a remedy of common law while injunction is the strong arm of equity."

GENERAL PRINCIPLES OF WRIT JURISDICTION

The courts exercise an equitable jurisdiction while issuing writs. The underlying object of these writs is to ensure that the law of the land is obeyed and administrative authorities are kept within their limits. The general principles on which writ jurisdiction is exercised by the Supreme Court and the High Courts may be read as under:-

Discretionary remedy
The court to which an application is made for a prerogative writ has complete discretion in the matter. However, this discretion is to be exercised ex debito justitiae, that is, in the larger interests of justice. As observed by Justice Krishna Iyer (in Gujarat Steel Tubes Ltd v. Mazdoor Sabha, AIR 1980 SC 1896), " We have to be cautious both in not overstepping as if Art. 226 were so large as an appeal and not failing to intervene where a grave error has crept in."

Locus standi :
The concept of locus standi refers to whether a particular applicant or petitioner has a right to invoke the jurisdiction of the court. In writ petitions, the preliminary question to be answered by the court is whether the petitioner is entitled to invoke the court's jurisdiction. As pointed out repeatedly by the Supreme Court, this question is entirely different from the question as to whether or not the petitioner in a given case is entitled to the relief sought by him. If he has no locus standi, his petition will be dismissed at the threshold without going into the merits of the case.

Delays and laches i.e unreasonable and inordinate delays: As stated earlier, the power to grant relief in writ petitions is *discretionary*. One of the grounds of refusal is a delay on the part of the petitioner to diligently approach the court, complaining about the alleged violation of his right. In order to avail of this remedy, the petitioner must come to the court at the earliest possible opportunity. If he is guilty of laches, i.e**,** unreasonable or inordinate delay, it would be a good ground to reject his petition. The maxim, Delay defeats equity, emphasizes the fact that the law helps those who are vigilant, and not those who sleep over their rights.

Existence of an alternate remedy

The court can always exercise its discretion to refuse relief even in cases where a legal right of the petitioner appears to have been violated, if he has an effective alternate remedy, as for instance, an appeal which he can avail of. However, this is not a rule of jurisdiction; it is a rule of practice, of policy and of convenience. In other words, there is no absolute bar to relief in all cases where an alternate remedy is available.

Disputed question of fact

Generally speaking, the Supreme Court and the High Courts do not exercise their writ jurisdiction in cases involving disputed questions of fact. In such cases, the courts prefer to leave the parties to litigate the matter in a civil court. Once again, this too is a question of discretion – and not of jurisdiction, - and each case is to be decided on its own facts and surrounding circumstances. Any person seeking a prerogative writ must make the fullest possible disclosure of all the relevant facts. He who seeks equity must come with clean hands.

An applicant who invokes the writ jurisdiction of the court must truthfully disclose all the relevant facts. As the very basis of writ jurisdiction is a correct disclosure of all relevant facts, an applicant cannot pick and choose the facts which he discloses in the petition. If he does not make the fullest possible disclosure, the writ petition is liable to be dismissed on this ground alone. As once observed by the Supreme Court, any person who invokes the extraordinary jurisdiction of the court should not attempt to misuse this valuable right by suppression, misrepresentation, misstatement, or concealment of facts. (K.D Sharma v. Steel Authority of India, JT (2008) 8 SC 57)

Policy matters

Policy matters are not meant to be examined by a court exercising its writ jurisdiction. As once observed, a writ court can neither tread an unknown path nor propel into uncharted oceans of government policy. (Benett Coleman & Co, Ltd v. Union Of India, 1973 SC 788)

Matters involving private rights

The remedy made available by Art. 32 and Art. 226 is a public law remedy. Therefore, it cannot be invoked to obtain relief in cases of alleged violation of private rights of the petitioner. (Mohd. Hanif v. State of Assam,(1969) 2 SCC 782).

Limitations:

The following factors limit the effectiveness of judicial control over administration.

(a) The judiciary cannot intervene in administrative process on its own. The courts intervene only when the aggrieved citizen takes the matter before them. Therefore, the judiciary lacks the *suo moto* power.

(b) The control exercised by the courts is in the nature of a post mortem control, that is, they intervene after the damage is done to the citizen by the administrative acts.

(c) All administrative acts are not subject to judicial control as the Parliament may exclude certain matters from the jurisdiction of the courtsl

(d) Self - denying ordinance, that is, the judiciary denies to itself jurisdiction is certain matters. The courts refuse to intervene in certain purely administrative matters on its own accord.
(e) The judicial process is very slow and cumbersome as well as very expensive.
(f)The judges being legal experts cannot fully and properly understand the highly technical nature of administrative acts.
(g) The volume, variety and complexity of administration has increased due to welfare orientation of the state. Hence, the courts cannot review each and every administrative act affecting the citizen.

SUMMARY OF WRITS

- *Habeas corpus***:** It literally means " to have the body of." It is an order issued by the court to a person who has detained another person, to produce the body of the latter before it. The court will set the imprisoned person free if the detention is illegal. This writ is a bulwark of individual liberty against arbitrary detention.
- *Mandamus* it literally means 'we command'. It is a command issued by the court to a public official asking him to perform his official duties which he has failed to perform.
- *Prohibition***:** It literally means 'to forbid.' It is issued by the higher court to a lower court when the latter exceeds its jurisdiction. It can be issued only against judicial and quasi-judicial authorities and not against administrative authorities. Hence, its importance as a tool of judicial control over administration is highly restricted.
- *Certiorari:* It literally means 'to be certified.' It is issued by higher court to lower court for transferring the records of proceedings of a case pending with it, for the purpose of determining the legality of its proceedings or for giving fuller or more satisfactory effect to them than could be preventive as well as curative. Like Prohibition, it can be issued only against judicial and quasi-judicial authorities and not against administrative authorities.
- *Quo warranto:* It literally means 'by what authority or warrant.' It is issue by the courts to enquire into the legality of claim of a person to public office. therefore, it prevents illegal assumption of public office by a person.

4. Conclusion

Thus, it can be safely concluded that the power of judicial review of administrative action is inherent in our Constitutional scheme which is based on rule of law and separation of powers. It is considered to be the basic features of our Constitution, which cannot be abrogated even by exercising the Constituent power of parliament. It is the most effective remedy available against the administrative excesses. Well it is positive sense among the masses that if the administration undertakes any work or acting under discretion power conferred upon it either by statutory rules or under the provisions of the Constitution of India. If it is failure to exercise discretion or abuse of discretion power to settle its score or gain any private profit due to this discretion power, then only option before the public is to go to judiciary under Article 32,136 or Article 226 of the Constitution of India. The main purpose of judicial review is to ensure that the laws enacted by the legislature conform to the rule of law. Judicial review has certain inherent limitations. It is more suited for adjudication of disputes than for performing administrative functions. It is for the executive to administer the law and function of judiciary is to ensure that government carries out its duty in accordance with the provision of the Constitution of India.

5. Assessment and Evaluation Section

5.1 Multiple choice Questions with Answers

Correct Ans.	Q-1	Which of the following is not a tool of executive control over public administration?
	A	Power of appointment and removal
Correct Ans.	**B**	**Line agencies**
	C	Appeal to public opinion
	D	Civil services code

Correct Ans.	Q-2	The judicial control over administrative acts emanates from the doctrine of:
	A	Separation of powers
	B	Judicial review
Correct Ans.	**C**	**Rule of law**
	D	Delegated legislation

Correct Ans.	Q-3	The Committee on Public undertakings was set up on the recommendation of:
	A	Administrative Reforms Commission
	B	Lanka Sundaran
Correct Ans.	**C**	**Krishna Menon Committee**
	D	Chagla Commission

Correct Ans.	Q-4	Which one of the following devices calls the attention of minister towards a matter of public importance?
	A	Half-an-hour discussion
Correct Ans.	**B**	**Calling attention notice**

	C	Short duration discussion
	D	Adjournment motion

Correct Ans.	Q-5	Which of the following is not a formal instrument of executive control over administration?
	A	Political direction
	B	Personnel management
	C	**Ordinances**
Correct Ans.	**D**	**Professional ethics**

Correct Ans.	Q-6	In the context of judicial control over administration, malfeasance stands for:
	A	Error of law
	B	Error of fact-finding
Correct Ans.	**C**	**Abuse of authority**
	D	Error of procedure

Correct Ans.	Q-7	Which one of the following is not a means of executive control over administration?
	A	Civil service code
	B	Advisory agencies
	C	Appeal to public opinion
Correct Ans.	**D**	**Statutory appeal**

Correct Ans.	Q-8	Which of the following writs is not specifically provided in the Constitution of India?
	A	Prohibition
	B	Mandamus
	C	Quo Warranto

Correct Ans.	**D**	**Injunction**

Correct Ans.	Q-9	In the context of judicial control over administration, misfeasance stands for:
	A	Lack of jurisdiction
Correct Ans.	**B**	**Error of law**
	C	Abuse of authority
	D	Error of procedure

Correct Ans.	Q-10	The least effective means of executive control over administration is:
	A	Executive legislation
	B	Budgetary system
	C	Staff agencies
Correct Ans.	**D**	**Appeal to public opinion**

Correct Ans.	Q-11	The primary objective of judicial control over administration is:
	A	To restrict the discretion and arbitrariness of administrative agencies.
	B	To help in redressing the grievances of citizens.
Correct Ans.	**C**	**To safeguard the rights and liberty of the citizens.**
	D	To contain and penalize the wrongful acts of government officials.

Correct Ans.	Q-12	Which of the following is not correctly matched?
	A.	Central Bureau of Investigation – 1963
	B.	Prevention of Corruption Act – 1947
Correct Ans.	**C.**	**Special Police Establishment – 1942**
	D.	Central Vigilance Commission – 1964

Correct Ans.	Q-13	No confidence Motion, to be admitted in the Lok Sabha, needs the support of:
	A.	80 Members
	B.	140 Members
Correct Ans.	**C.**	**50 Members**
	D.	160 Members

5.2 Interesting Facts

No.	Interesting/ Importance Facts
1.	The power of judicial review of administrative action is inherent in our Constitutional scheme which is based on rule of law and separation of powers.
2.	Parliamentary control is exercised over administration through various committees.
3.	The executive controls the administration through budgetary system. It formulates the budget, get it enacted by the parliament, and allocates the necessary funds to the administrative agencies to meet their expenditure. In all such activities, the ministry of finance (which is the central financial agency of the Government of India) plays an important role.
4.	Doctrine of Ultra Vires: Traditionally, the basis of judicial control of acts and decisions of public authorities both under common law and Indian laws has been doctrine of ultra vires. The term ultra vires is derived from two words ultra and vires. Ultra means beyond and vires means power. Precisely speaking it means any act or decision by administrative authority must be exercised within the limit prescribed by law. Any act/decision which is beyond the power shall be ultra vires and hence void-ab-initio.

5.3 Web-links

No	Web-links
1.	parliamentofindia.nic.in › intro
2.	http://publicadministrationtheone.blogspot.in/2012/08/accountability-and-control-concepts-of.html
3.	http://www.jstor.org/stable/41854378
4.	http://www.gkbasic.com/2013/06/executive-control-over-administration.html

5.4 Glossary of Terms

1.	Habeas corpus	'Habeas corpus' literally means 'Have (or bring) the body. By issuing this writ, the court orders a person of authority who has detained another person to bring him before the court, so that the court may decide on the validity and justification of his detention .Thus, this is a prompt and effective remedy against all norms of unlawful restraint. The object of this writ is not to punish the detaining authority, but to free the person who has been unlawfully detained.
2.	Mandamus	Mandamus literally means 'We command'. It is an order issued by a court to a public authority directing it to perform a public duty imposed upon it by the law. It may be directed to any government officer, subordinate court, corporation of other public authority, calling upon it to do or to refrain from doing, any specific act which such authority is under obligation to do or refrain from doing. The object of this writ is to ensure that justice is done. This remedy can be invoked in all cases where the aggrieved party does not have any other remedy in the matter.
3.	Prohibition	It literally means 'to forbid.' It is issued by the higher court to a lower court when the latter exceeds its jurisdiction. It can be issued only against judicial and quasi-judicial authorities and not against administrative authorities. Hence, its importance as a tool of judicial control over administration is highly restricted.
4.	Certiorari	It literally means 'to be certified.' It is issued by higher court to lower court for transferring the records of proceedings of a case pending with it, for the purpose of determining the legality of its proceedings or for giving fuller or more satisfactory effect to them than could be preventive as well as curative. Like Prohibition, it can be issued only against judicial and quasi-judicial authorities and not against administrative authorities.
5.	Quo Warranto	It literally means 'by what authority or warrant.' It is issue by the courts to enquire into the legality of claim of a person to public office. therefore, it prevents illegal assumption of public office by a person.

5.5 Points to Ponder

No.	Points to Ponder
1.	Need For Control Over Administrative Act?
2.	Types Of Control Over Administrative Act?
3.	How Legislature Exercises Control Over Administration?
4.	How Executive Control Over Administrative Act?