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DOCTRINE OF PROPORTIONALITY IN INDIAN ADMINISTRATIVE LAW: A SHIFT FROM WEDNESBURY PRINCIPLE TO A RIGHTS-ORIENTED APPROACH

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ABSTRACT :

The exercise of administrative discretion is an essential part of modern governance, but such discretion cannot be allowed to become arbitrary or excessive. The Doctrine of Proportionality has emerged as an important principle of judicial review to ensure that administrative action does not impose a measure that is unnecessarily harsh or excessive in relation to the objective sought to be achieved. Traditionally, Indian administrative law relied considerably on the Wednesbury principle of reasonableness, under which courts exercised restraint and interfered only where an administrative decision was unreasonable, irrational or based on irrelevant considerations. Over time, however, Indian courts have increasingly adopted proportionality, particularly where administrative action affects fundamental rights.

This study examines the development of proportionality in Indian Administrative Law and traces its movement from traditional Wednesbury review towards a more structured and rights-oriented form of judicial review. The study analyses important decisions including *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, *Hind Construction & Engineering Co. Ltd. v. Their Workmen*, *Ranjit Thakur v. Union of India*, *Ex-Naik Sardar Singh v. Union of India*, *Union of India v. G. Ganayutham*, *Om Kumar v. Union of India*, *Modern Dental College & Research Centre v. State of Madhya Pradesh*, *K.S. Puttaswamy v. Union of India* and *Anuradha Bhasin v. Union of India*. The study also examines the relationship between proportionality and reasonableness and considers whether proportionality has completely replaced Wednesbury review in India. It concludes that Indian law reflects not a complete abandonment of Wednesbury but a gradual development towards a more structured and rights-sensitive approach to administrative review.

Keywords: Doctrine of Proportionality, Administrative Law, Wednesbury Principle, Judicial Review, Administrative Discretion, Fundamental Rights, Article 14, Article 19, Article 21

1. INTRODUCTION

Administrative authorities exercise wide powers in order to implement legislation, maintain public order, regulate activities and provide public services. Since modern government performs numerous functions, it is practically impossible for every administrative decision to be governed by detailed statutory rules. Administrative discretion is therefore unavoidable. However, the existence of discretion also creates the possibility of its misuse.

Administrative law has developed various principles to ensure that discretionary power is exercised within legal limits. One of the important principles developed for this purpose is the Doctrine of Proportionality. The basic idea behind proportionality is that an administrative measure should not be more drastic than what is necessary for achieving the intended objective. Where an authority chooses a measure that is excessively harsh compared with the purpose sought to be achieved, the decision may become vulnerable to judicial review.¹

The Doctrine of Proportionality is closely connected with the broader concept of reasonableness. Under the traditional Wednesbury principle, courts generally avoided interfering with administrative decisions merely because another decision appeared preferable. Judicial intervention was ordinarily justified when the authority acted contrary to law, considered irrelevant matters, ignored relevant matters or arrived at a decision which no reasonable authority could have reached.²

The development of proportionality has introduced a more structured examination of administrative action. Instead of asking only whether a decision is so unreasonable that no reasonable authority could have made it, proportionality may require the court to examine the relationship between the objective pursued and the means adopted to achieve it. This becomes particularly important where administrative action affects fundamental rights.

¹ C.K. Takwani, Lectures on Administrative Law, 6th ed., Eastern Book Company, discussion on the Doctrine of Proportionality and control of administrative discretion

² *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, [1948] 1 KB 223.

Indian administrative law therefore presents an interesting development. The Wednesbury principle continues to operate in several areas, particularly in matters involving administrative discretion and disciplinary punishment. At the same time, proportionality has received greater importance where constitutional rights are directly affected.

The central concern of this research is therefore to examine whether Indian administrative law has moved from a predominantly deferential Wednesbury approach towards a more rights-oriented proportionality review.

1.1 Research Gap

The Doctrine of Proportionality has been extensively discussed in constitutional law and administrative law. However, there remains a need to examine its development specifically in the Indian administrative context and to understand the relationship between proportionality and the traditional Wednesbury principle.

A significant question is whether proportionality has completely replaced Wednesbury review or whether both principles continue to operate in different areas. The distinction becomes particularly important in disciplinary matters, where courts have traditionally exercised considerable restraint, and in cases involving fundamental rights, where judicial review has become more intensive.

This study attempts to examine this development by tracing the judicial approach from Wednesbury and early Indian cases to the contemporary rights-oriented decisions of the Supreme Court.

1.2 Research Questions

The study addresses the following questions:

1. What is the meaning and scope of the Doctrine of Proportionality in Administrative Law?
2. How does the Doctrine of Proportionality differ from the traditional Wednesbury principle of reasonableness?
3. How has the Indian judiciary developed and applied proportionality in administrative decisions?
4. Has proportionality replaced the Wednesbury principle in India, or do both continue to operate in different situations?
5. How has proportionality developed as a rights-oriented constitutional principle under Articles 14, 19 and 21?

1.3 Objectives Of The Study

The study has the following objectives:

1. To examine the meaning, nature and scope of the Doctrine of Proportionality.
2. To understand the traditional Wednesbury principle and its role in judicial review of administrative discretion.
3. To analyse the development of proportionality through important Indian judicial decisions.
4. To examine the relationship between proportionality and the constitutional protection of fundamental rights.
5. To determine the extent to which proportionality has contributed to a rights-oriented approach to judicial review.
6. To identify the limitations and challenges involved in applying proportionality in administrative decision-making.

1.4 Research Methodology

The study adopts a doctrinal research methodology based primarily on qualitative analysis of legal materials. It relies upon constitutional provisions, judicial decisions, standard textbooks on Administrative Law, academic materials and other relevant secondary sources. Particular emphasis is placed on C.K. Takwani's *Lectures on Administrative Law* and the classroom materials relating to the Doctrine of Proportionality. Important judicial decisions of the Supreme Court of India are analysed to trace the development of proportionality in Indian Administrative Law.

1.5 Scope Of The Study

The study focuses on the application of the Doctrine of Proportionality to administrative action in India. It primarily examines the relationship between proportionality, reasonableness and judicial review. The study also considers the development of proportionality in relation to disciplinary punishment and administrative decisions affecting fundamental rights under Articles 14, 19 and 21 of the Constitution.

The study does not attempt to provide an exhaustive analysis of every case concerning proportionality. Instead, it focuses on significant decisions that demonstrate the development of the doctrine and the gradual movement towards a rights-oriented approach.

1.6 Significance Of The Study

The significance of the Doctrine of Proportionality lies in its ability to maintain a balance between administrative objectives and individual rights. Administrative authorities require sufficient discretion to perform their functions effectively, but individuals must also be protected against excessive and arbitrary exercise of public power.

The study is significant because it demonstrates how judicial review has developed from a relatively restrained examination of administrative reasonableness towards a more structured examination of the relationship between governmental objectives and the measures adopted to achieve them.

2. REVIEW OF LITERATURE

2.1 C.K. Takwani – Lectures On Administrative Law

C.K. Takwani's *Lectures on Administrative Law* provides an important foundation for understanding the Doctrine of Proportionality. The text explains proportionality as one of the methods through which courts control the abuse of administrative discretion. It emphasises that administrative measures should not be more drastic than necessary for achieving the desired result.³

The discussion also explains the connection between proportionality and the decision-making process. Proportionality is concerned with the manner in which the decision-maker has arranged priorities and attached importance to different considerations. It therefore examines not merely the final result but the method through which the decision was reached.

Takwani also discusses the balancing and necessity aspects of proportionality. The balancing approach examines whether the burden imposed is excessive, while the necessity approach considers whether a less restrictive alternative could have achieved the same objective.

The cases of *Hind Construction*, *Ranjit Thakur*, *Ex-Naik Sardar Singh*, *Union of India v. Parma Nanda*, *G. Ganayutham* and *Coimbatore District Central Cooperative Bank* demonstrate the application of proportionality particularly in disciplinary matters.

2.2 Comparative understanding of Wednesbury and Proportionality

The Doctrine of Proportionality provides a practical understanding of the relationship between administrative discretion and judicial review. The notes emphasise that administrative decision-making is subject to checks against arbitrariness.

The Wednesbury principle is explained through three important considerations: irrelevant considerations should not influence the decision, relevant considerations should not be ignored, and the decision should satisfy the requirement of reasonableness.⁴

The distinction is particularly important where administrative action affects fundamental rights. In such cases, proportionality may require a closer examination of the justification for the restriction. At the same time, proportionality does not necessarily eliminate Wednesbury review. Indian administrative law continues to recognise both approaches, with their application depending upon the nature of the administrative action and the rights or interests affected.

It also highlights the punishment aspect of proportionality. Decisions such as *Ranjit Thakur v. Union of India* and *Ex-Naik Sardar Singh v. Union of India* demonstrate how a punishment may be questioned when it is excessively severe compared with the misconduct proved.

2.3 Development Of The Doctrine In Judicial Decisions

Judicial decisions form the most important source for understanding the development of proportionality. The Indian Supreme Court initially relied considerably upon reasonableness and Wednesbury principles. Subsequently, proportionality became more visible in cases involving disciplinary punishment and later acquired greater constitutional significance.

The decision in *Om Kumar v. Union of India* is particularly important because the Supreme Court explained the distinction between primary and secondary review and clarified the situations in which proportionality and Wednesbury principles operate.

Later decisions such as *Modern Dental College, K.S. Puttaswamy* and *Anuradha Bhasin* demonstrate the increasing importance of proportionality in cases involving fundamental rights.

2.4 Contemporary Understanding Of Proportionality

Contemporary discussions of proportionality generally identify four important stages: the existence of a legitimate objective, a rational connection between the measure and the objective, consideration of less restrictive alternatives, and balancing between the individual's right and the public objective.⁵

This approach provides a more structured framework for examining restrictions upon rights. It also demonstrates that proportionality is not merely another word for reasonableness but can involve a more intensive examination of the means adopted by the State.

2.5 Synthesis Of The Literature

The available materials indicate that proportionality has developed as an important principle for controlling administrative discretion. The traditional approach emphasised judicial restraint, while proportionality permits a more structured examination of the relationship between governmental objectives and individual rights.

³ C.K. Takwani, *Lectures on Administrative Law*, 6th ed., Eastern Book Company, pp. 337–342.

⁴ Jud Mathews, "Reasonableness and Proportionality," in *The Oxford Handbook of Comparative Administrative Law*, Oxford University Press, 2020, pp. 917–933.

⁵ *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.

However, the development does not establish that *Wednesbury* has completely disappeared from Indian Administrative Law. The Supreme Court in *Om Kumar* recognised different standards of review depending upon the nature of the administrative action and the right affected.

The literature therefore supports the view that Indian Administrative Law has witnessed a gradual movement from a predominantly deferential approach towards a more rights-oriented form of review, while retaining *Wednesbury* principles in appropriate situations.

3. CONCEPT AND EVOLUTION OF THE DOCTRINE OF PROPORTIONALITY

3.1 Meaning Of The Doctrine

The Doctrine of Proportionality requires that the means adopted by an administrative authority should bear a reasonable relationship to the objective sought to be achieved. Administrative action should not impose a burden that is excessive when compared with the purpose for which the action is taken.

In simple terms, the punishment, restriction or administrative measure must be proportionate to the nature of the situation. The doctrine therefore attempts to prevent an authority from using a disproportionate measure merely because it possesses the legal power to do so.

The principle is particularly relevant where the exercise of administrative power affects individual rights and interests. A lawful objective does not automatically make every measure adopted to achieve that objective lawful. The measure must also be appropriately connected to the objective and should not unnecessarily restrict the affected person.

3.2 Nature And Scope

Proportionality operates as a principle of judicial review. It does not ordinarily convert the court into an administrative authority or allow the court to substitute its own decision merely because it considers another option preferable.

The doctrine is concerned with the relationship between the objective, the means used and the effect of the administrative measure. Where the measure is grossly excessive or unnecessarily restrictive, judicial intervention may become justified.

The doctrine may operate in both procedural and substantive contexts. It may be relevant to the severity of punishment imposed on an employee as well as restrictions imposed upon constitutional rights.⁶

3.3 Purpose And Objectives

The major purposes of proportionality include:

1. Preventing arbitrary exercise of administrative power.
2. Protecting individual rights and interests.
3. Ensuring that administrative measures are not excessive.
4. Maintaining a balance between public interest and individual liberty.
5. Strengthening judicial review of discretionary powers.
6. Encouraging authorities to adopt appropriate and carefully considered measures.

Thus, proportionality does not seek to prevent the State from pursuing legitimate objectives. Instead, it seeks to ensure that the State pursues those objectives through measures that are reasonably necessary and not excessive.

3.4 Elements Of Proportionality

The modern proportionality analysis may broadly involve four stages.

First, there must be a *legitimate objective*. The authority must pursue a legally permissible and legitimate purpose.

Second, there must be a *rational connection* between the measure and the objective. The measure must have the capacity to contribute towards achieving the objective.

Third, the court may consider *necessity*. Where a less restrictive measure could achieve the same objective with similar effectiveness, the more restrictive measure may be considered disproportionate.

Fourth, there must be *balancing* between the importance of the objective and the extent of interference with the individual's right.⁷

⁶Alec Stone Sweet & Jud Mathews, "Proportionality Balancing and Global Constitutionalism," 47 Columbia Journal of Transnational Law 72 (2008).

⁷C.K. Takwani, Lectures on Administrative Law, 6th ed., Eastern Book Company, pp. 337–342.

These stages provide a structured framework for determining whether the administrative measure is justified.

3.5 Proportionality As A Method Of Decision-Making

An important aspect of proportionality is that it is concerned with the method of decision-making. The decision-maker must properly consider the factors relevant to the decision and attach appropriate importance to competing interests.

For example, where a minor misconduct results in an extremely severe punishment, the question is not simply whether the authority had the power to impose punishment. The court may examine whether the punishment bears a reasonable relationship to the misconduct.

This aspect is particularly visible in disciplinary cases decided by the Supreme Court.

4. WEDNESBURY PRINCIPLE AND THE FOUNDATIONS OF JUDICIAL REVIEW

4.1 Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation⁸

The traditional principle of reasonableness is associated with *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*.^[7]

The case concerned the grant of permission to a cinema to operate on Sundays subject to a condition that children below a particular age could not be admitted, even when accompanied by adults. The decision of the local authority was challenged.

The court explained that judicial review would not permit interference merely because the court might have reached a different conclusion. Intervention would be justified where the authority acted contrary to law, considered irrelevant matters, ignored relevant matters or reached a decision so unreasonable that no reasonable authority could have made it.

The principle consequently established a relatively restrained standard of judicial review.

4.2 Three Important Wednesbury Checks

The traditional approach can be understood through three important checks.

1. Irrelevant Considerations

An administrative authority should not base its decision on matters that are irrelevant to the statutory purpose or the issue before it.

2. Relevant Considerations

The authority must take into account matters that are legally and factually relevant to the decision. Failure to consider a relevant factor may make the decision vulnerable to judicial review.

3. Reasonableness

The decision must not be so unreasonable that it falls outside the range of decisions that a reasonable authority could make.

These principles provide important protection against arbitrary administrative action while maintaining judicial restraint.

4.3 Council Of Civil Service Unions v. Minister For The Civil Service⁹

In *Council of Civil Service Unions v. Minister for the Civil Service*, Lord Diplock classified the principal grounds of judicial review as illegality, irrationality and procedural impropriety.

The decision is important for the development of proportionality because Lord Diplock recognised that proportionality might eventually become a distinct ground of judicial review.

The case therefore represents an important stage in the development of judicial review beyond traditional reasonableness.

⁸ Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation, [1948] 1 KB 223.

⁹ Council of Civil Service Unions v. Minister for the Civil Service, [1985] AC 374.

4.4 *Wednesbury And Proportionality*

Wednesbury and proportionality are closely related because both seek to prevent arbitrary administrative action. However, their intensity of review can differ.

Wednesbury generally asks whether the decision is within the range of reasonable administrative decisions. Proportionality may require a more structured examination of whether the measure is suitable, necessary and balanced in relation to the objective.

The distinction does not mean that proportionality has completely replaced Wednesbury. Indian law continues to recognise Wednesbury review in appropriate situations, particularly where the court is reviewing administrative discretion without a direct infringement of fundamental rights.

The development is therefore better understood as a *shift towards proportionality in appropriate contexts rather than the complete disappearance of Wednesbury*.

5. DEVELOPMENT OF PROPORTIONALITY IN INDIAN ADMINISTRATIVE LAW

5.1 *Hind Construction & Engineering Co. Ltd. v. Their Workmen*¹⁰

One of the early Indian decisions illustrating proportionality is *Hind Construction & Engineering Co. Ltd. v. Their Workmen*.

In this case, certain workers were absent on a day which they treated as a holiday. They were dismissed from employment. The Supreme Court considered the punishment excessively severe in the circumstances.

The Court recognised that dismissal was not an appropriate response to the misconduct and that a lesser punishment could have been imposed.

The case illustrates an important aspect of proportionality: the existence of misconduct does not automatically justify every punishment. The punishment must correspond to the seriousness of the misconduct.

5.2 *Ranjit Thakur v. Union of India*¹¹

The decision in *Ranjit Thakur v. Union of India* is one of the most important Indian cases concerning proportionality in disciplinary action.

The appellant, an Army officer, disobeyed an order of his superior officer relating to taking food. Disciplinary proceedings followed and he was sentenced to rigorous imprisonment and dismissed from service.

The Supreme Court examined whether the punishment was proportionate to the misconduct. The Court held that the punishment was grossly disproportionate.

The Court emphasised that punishment should not be vindictive or unnecessarily harsh and that the sentence must suit both the offence and the offender.

The case is significant because it demonstrates that the proportionality principle can operate as part of judicial review of disciplinary punishment. The court does not ordinarily interfere merely because another punishment could have been imposed, but intervention may be justified when the punishment is so disproportionate that it shocks the conscience of the court.

5.3 *Ex-Naik Sardar Singh v. Union of India*¹²

In *Ex-Naik Sardar Singh v. Union of India*, the appellant was authorised to carry one bottle of liquor but was found carrying four bottles.

A court martial imposed three months' rigorous imprisonment and dismissal from service. The Supreme Court considered the punishment disproportionate to the misconduct.

The decision demonstrates that even where misconduct is established, the punishment imposed must maintain a reasonable relationship with the gravity of the misconduct.

The case further strengthened the principle that excessive punishment may be subject to judicial review.

¹⁰Hind Construction & Engineering Co. Ltd. v. Their Workmen, AIR 1965 SC 917; (1965) 2 SCR 85.

¹¹Ranjit Thakur v. Union of India, (1987) 4 SCC 611; AIR 1987 SC 2386.

¹²Ex-Naik Sardar Singh v. Union of India, (1991) 3 SCC 213.

5.4 *Union Of India v. G. Ganayutham*¹³

The Supreme Court gave a detailed discussion of proportionality in *Union of India v. G. Ganayutham*.

The case concerned disciplinary action involving withholding of pension and gratuity. The Supreme Court examined the scope of judicial review of administrative punishment and emphasised that courts ordinarily exercise restraint in disciplinary matters.

The Court recognised the relevance of proportionality but also made it clear that judicial review is not an appeal against the decision of the disciplinary authority.

Unless the punishment is unreasonable, irrational or disproportionate, the court should ordinarily not interfere. Even where interference is justified, the normal course is to remit the matter to the competent authority rather than automatically substitute the court's own punishment.

The case therefore demonstrates the balance between proportionality and judicial restraint.

5.5 *Om Kumar v. Union of India*¹⁴

Om Kumar v. Union of India is a landmark decision for understanding the relationship between *Wednesbury* and proportionality in Indian Administrative Law.

The Supreme Court distinguished between *primary review* and *secondary review*.

Where administrative action affects fundamental freedoms under Articles 19 and 21, proportionality may operate as a primary standard of review. The court may directly examine whether the restriction imposed upon the right is proportionate.

On the other hand, where administrative action is challenged as arbitrary under Article 14, the traditional *Wednesbury* principle may operate as a secondary review. The court examines whether the decision is irrational, unreasonable or based upon irrelevant considerations.

The Court therefore did not completely replace *Wednesbury* with proportionality. Instead, it recognised that different standards may apply depending upon the nature of the administrative action and the rights involved.

This distinction is central to understanding the development of proportionality in India.

5.6 *Coimbatore District Central Cooperative Bank Ltd. v. Employees Association*¹⁵

In *Coimbatore District Central Cooperative Bank Ltd. v. Coimbatore District Central Cooperative Bank Employees Association*, the Supreme Court considered disciplinary punishment imposed upon employees who participated in an illegal strike and prevented other employees from working.

The Court observed that proportionality had become an important principle in judicial review. However, it did not find the punishment to be so disproportionate as to justify judicial interference.

The case demonstrates that proportionality does not mean that courts will interfere whenever a punishment appears severe. The punishment must cross the threshold of disproportionality required for judicial intervention.

5.7 *Dev Singh v. Punjab Tourism Development Corporation Ltd.*¹⁶

In *Dev Singh v. Punjab Tourism Development Corporation Ltd.*, an employee was dismissed in relation to the misplacement of a file.

The Supreme Court considered dismissal too severe in the circumstances, particularly considering the surrounding facts and the employee's record. A lesser punishment was considered appropriate.

The decision illustrates that proportionality requires consideration of the circumstances surrounding the misconduct and not merely the existence of the misconduct itself.

¹³Union of India v. G. Ganayutham, (1997) 7 SCC 463.

¹⁴Om Kumar v. Union of India, (2001) 2 SCC 386.

¹⁵Coimbatore District Central Cooperative Bank Ltd. v. Coimbatore District Central Cooperative Bank Employees Association, (2007) 4 SCC 669.

¹⁶Dev Singh v. Punjab Tourism Development Corporation Ltd., (2003) 8 SCC 9.

6. RIGHTS-ORIENTED PROPORTIONALITY UNDER THE INDIAN CONSTITUTION¹⁷

6.1 Articles 14, 19 And 21

The development of proportionality in India has become closely connected with the fundamental rights guaranteed by the Constitution.

Article 14 protects equality before law and equal protection of laws. It also provides an important constitutional basis for challenging arbitrary State action.¹⁸

Article 19 protects important freedoms subject to constitutionally permissible restrictions. When the State restricts these freedoms, the restriction must satisfy the constitutional requirements of reasonableness.¹⁹

Article 21 protects life and personal liberty. The modern interpretation of Article 21 has expanded its scope to include several aspects of individual autonomy, dignity and privacy.²⁰

The application of proportionality to these rights has contributed significantly to the development of a rights-oriented approach to judicial review.

6.2 *Modern Dental College & Research Centre v. State of Madhya Pradesh*²¹

In *Modern Dental College & Research Centre v. State of Madhya Pradesh*, the Supreme Court applied proportionality in the context of restrictions upon fundamental rights.

The Court explained proportionality through a structured test. A restriction must pursue a proper purpose, have a rational connection with that purpose, be necessary in the sense that there is no equally effective but less restrictive alternative, and maintain a proper balance between the importance of the objective and the restriction imposed upon the right.

This four-stage approach gave proportionality a more structured constitutional form in India.

The significance of the judgment lies in the fact that proportionality was not treated merely as a vague idea of fairness. It was developed as a method through which courts could examine whether restrictions upon constitutional rights were justified.

6.3 *K.S. Puttaswamy (Retd.) v. Union of India*²²

The Supreme Court's decision in *K.S. Puttaswamy (Retd.) v. Union of India* recognised privacy as a constitutionally protected right.

The judgment strengthened the importance of proportionality in cases involving State restrictions upon fundamental rights. Once a State measure interferes with a protected right, the legitimacy of the objective and the relationship between the objective and the restriction become important considerations.

The proportionality framework therefore became closely connected with constitutional protection of individual autonomy and liberty.

6.4 *K.S. Puttaswamy (Aadhaar) v. Union of India*²³

The Aadhaar judgment further developed the proportionality analysis in the context of privacy and State objectives.

The Court considered whether the State's objective could justify the extent of interference with individual rights. The decision demonstrates that proportionality requires more than simply identifying a legitimate governmental objective. The means adopted to achieve the objective must also be appropriately connected, necessary and balanced.

The decision therefore strengthened the application of proportionality as a structured constitutional review mechanism.

6.5 *AnuradhaBhasin v. Union of India*²⁴

The decision in *AnuradhaBhasin v. Union of India* further demonstrates the rights-oriented application of proportionality.

¹⁷Vicki C. Jackson, "Constitutional Law in an Age of Proportionality," 124 Yale Law Journal 3094 (2015)

¹⁸The Constitution of India, art. 14.

¹⁹The Constitution of India, art. 19.

²⁰The Constitution of India, art. 21.

²¹*Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.

²²*K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

²³*K.S. Puttaswamy (Aadhaar) v. Union of India*, (2019) 1 SCC 1.

²⁴*AnuradhaBhasin v. Union of India*, (2020) 3 SCC 637.

The case concerned restrictions imposed on communication and access to the internet in Jammu and Kashmir. The Supreme Court examined the restrictions in the context of constitutional rights and the requirement that restrictions must satisfy the proportionality standard.

The Court emphasised that restrictions must have a legitimate objective and must bear a rational connection with that objective. The availability of less restrictive alternatives and the overall impact of the restriction are also relevant.

The judgment illustrates how proportionality can be used to examine executive measures that substantially affect individual freedoms.

6.6 Has *Wednesbury* Been Replaced?

The development of proportionality in India should not be understood as the complete replacement of *Wednesbury*.

Om Kumar provides the clearest explanation of this position. Where fundamental freedoms under Articles 19 and 21 are directly affected, proportionality may operate as a primary standard of review. Where administrative action is challenged as arbitrary under Article 14, the *Wednesbury* principle continues to have relevance.

Similarly, disciplinary matters continue to involve considerable judicial restraint. Courts do not ordinarily substitute their own view regarding the appropriate punishment unless the punishment is clearly disproportionate or shocks the conscience.

Thus, Indian law reflects a *coexistence of Wednesbury and proportionality*, with proportionality assuming greater significance in rights-based cases.

7. CRITICAL ANALYSIS AND DISCUSSION

7.1 From Outcome Restraint To Structured Scrutiny

The most important development brought about by proportionality is the gradual movement towards structured scrutiny.

Under the traditional *Wednesbury* approach, the threshold for judicial intervention was high. The court was primarily concerned with whether the decision was irrational or unreasonable to such an extent that no reasonable authority could have made it.

Proportionality allows the court, particularly in rights-based cases, to examine the relationship between the governmental objective and the measure adopted to achieve it.

This does not mean that courts simply replace administrative decisions with their own decisions. Rather, proportionality provides a framework for determining whether the restriction imposed is justified.

7.2 Protection Of Individual Rights

One of the major strengths of proportionality is its emphasis on individual rights.

Administrative decisions may affect employment, liberty, privacy, movement, professional activities and other interests. A measure may have a legitimate public purpose but may still impose an excessive burden on an individual.

Proportionality ensures that the existence of a legitimate objective does not automatically justify unlimited administrative action.

7.3 Maintaining Administrative Discretion²⁵

Administrative authorities possess expertise and practical knowledge in their respective fields. Excessive judicial intervention could interfere with effective administration.

Therefore, proportionality must operate with appropriate judicial restraint. The purpose of judicial review is not to decide what the court would have done if it were the administrative authority.

This concern is particularly visible in disciplinary cases such as *Ganayutham* and *Coimbatore District Central Cooperative Bank*.

7.4 Subjectivity In Balancing

One difficulty with proportionality is the possibility of subjectivity during the balancing stage.

²⁵C.K. Takwani, Lectures on Administrative Law, 6th ed., Eastern Book Company, discussion on the Doctrine of Proportionality and control of administrative discretion

Determining whether an interference with a right is excessive involves weighing competing interests. Different judges may potentially attach different importance to the same interests.

However, a structured proportionality test can reduce this problem by requiring courts to explain the objective, rational connection, necessity and balance involved.

7.5 Proportionality And Reasonableness

Proportionality and reasonableness share considerable common ground. Both are concerned with preventing arbitrary administrative action.

However, proportionality may provide a more structured form of review. While *Wednesbury* focuses heavily on the reasonableness of the administrative decision, proportionality examines whether the means adopted are appropriate in relation to the objective.

Therefore, proportionality may be viewed as an extension and refinement of judicial review rather than as an entirely unrelated doctrine.

7.6 Proportionality And Punishment

The disciplinary cases demonstrate that proportionality is particularly important in determining the severity of punishment.

A disciplinary authority may possess the power to impose punishment, but the punishment must correspond to the seriousness of the misconduct. *Hind Construction, Ranjit Thakur, Ex-Naik Sardar Singh* and *Dev Singh* demonstrate this principle.

At the same time, *Ganayutham* and *Coimbatore District Central Cooperative Bank* demonstrate the limits of judicial intervention.

Therefore, proportionality in disciplinary matters does not give courts unrestricted power to replace administrative punishment.

8. CHALLENGES AND LIMITATIONS

8.1 Difficulty In Determining The Proper Balance

The balancing stage can sometimes be difficult because it requires the court to compare competing interests. There is no mathematical formula through which the importance of an individual right and the importance of a governmental objective can always be measured.

Therefore, courts must provide clear reasons for their conclusions.

8.2 Institutional Competence

Administrative authorities may possess specialised expertise which courts may not have. Decisions relating to technical, economic, disciplinary or policy matters may require specialised knowledge.

Judicial review must therefore remain focused on legality, fairness and proportionality rather than transforming the court into the primary decision-maker.

8.3 Different Standards In Different Contexts

Another difficulty is that proportionality does not operate identically in every administrative situation.

A constitutional rights case may require a more intensive review, whereas disciplinary matters may attract greater judicial restraint. This contextual nature can sometimes make the application of proportionality less predictable.

8.4 Risk Of Substitution Of Judicial Opinion

There is a possibility that intensive proportionality review may unintentionally lead to the substitution of judicial opinion for administrative judgment.

The distinction between reviewing a decision and re-making the decision must therefore be maintained. Courts should interfere when legal standards are violated rather than merely because another administrative choice appears preferable.

8.5 Need For Reasoned Administrative Decisions

The effective application of proportionality depends upon administrative authorities providing proper reasons for their decisions.

A reasoned administrative decision makes it easier to determine what objective was pursued, what considerations were taken into account and why a particular measure was selected.

Therefore, proportionality also indirectly encourages better administrative decision-making.

9. FINDINGS AND RECOMMENDATIONS

9.1 Findings

The study makes the following findings:

1. The Doctrine of Proportionality is an important mechanism for controlling excessive exercise of administrative discretion.
2. The traditional Wednesbury principle continues to remain relevant in Indian Administrative Law.
3. Indian courts have gradually adopted proportionality more explicitly, particularly in cases involving fundamental rights.
4. *Ranjit Thakur* and *Ex-Naik Sardar Singh* demonstrate the application of proportionality to disciplinary punishment.
5. *Union of India v. G. Ganayutham* demonstrates the importance of judicial restraint while reviewing administrative punishment.
6. *Om Kumar* provides a significant distinction between proportionality as primary review and Wednesbury as secondary review.
7. *Modern Dental College, K.S. Puttaswamy* and *Anuradha Bhasin* demonstrate the development of proportionality as a rights-oriented constitutional principle.
8. Proportionality has therefore strengthened the protection of individual rights without completely eliminating the Wednesbury principle.
9. The development in India is better described as a shift from a predominantly deferential approach towards a more structured form of judicial review.

9.2 Recommendations

The following measures may strengthen the application of proportionality in administrative law:

1. *Reasoned Decision-Making*: Administrative authorities should provide clear reasons for decisions, particularly where individual rights or serious penalties are involved.
2. *Consideration Of Alternatives*: Authorities should consider whether a less restrictive measure can effectively achieve the same administrative objective.
3. *Context-Sensitive Review*: Courts should apply proportionality according to the nature of the administrative action and the right affected.
4. *Protection Of Administrative Expertise*: Judicial review should not become an appeal against administrative decisions, especially in matters involving technical or specialised expertise.
5. *Greater Consistency*: Courts should clearly explain the proportionality standard being applied so that administrative authorities can better understand the limits of their discretion.
6. *Balance Between Rights And Public Interest*: Proportionality should continue to maintain a balance between individual rights and legitimate governmental objectives rather than treating either interest as automatically superior.

10. CONCLUSION

The Doctrine of Proportionality has become an important principle of Indian Administrative Law. Its development reflects the changing nature of judicial review and the increasing importance given to the protection of individual rights against excessive exercise of public power.

The traditional Wednesbury principle played an important role in controlling administrative discretion by preventing decisions based on irrelevant considerations, failure to consider relevant matters and extreme unreasonableness. However, its relatively deferential nature created limitations when administrative action directly affected fundamental rights.

Indian courts gradually incorporated proportionality into administrative review. *Hind Construction*, *Ranjit Thakur* and *Ex-Naik Sardar Singh* demonstrated that excessive punishment could be challenged. *Ganayutham* and *Om Kumar* subsequently provided greater clarity regarding the limits of judicial review and the relationship between proportionality and Wednesbury.

The constitutional cases have taken this development further. *Modern Dental College, K.S. Puttaswamy* and *Anuradha Bhasin* demonstrate that proportionality has become an important framework for examining restrictions upon fundamental rights. The focus is not merely on whether the State has a legitimate objective but also on whether the means adopted are rationally connected, necessary and appropriately balanced.

At the same time, it would be inaccurate to state that Wednesbury has completely disappeared from Indian Administrative Law. The decision in *Om Kumar* clearly indicates that different standards of review may operate in different contexts. Wednesbury continues to have relevance in cases involving administrative arbitrariness and disciplinary matters, subject to the established limits of judicial review.

Therefore, the development of proportionality in India is best understood as a *shift rather than a complete replacement*. The Indian judiciary has moved towards a more structured and rights-oriented approach while retaining judicial restraint and respect for administrative expertise.

Ultimately, the Doctrine of Proportionality seeks to achieve a simple but fundamental principle: *the exercise of public power should not be excessive in relation to the purpose for which that power is exercised*. It provides a means of ensuring that administrative efficiency and governmental objectives remain consistent with fairness, reasonableness and the protection of individual rights.

REFERENCES

Books

- C.K. Takwani, *Lectures on Administrative Law*, 6th ed., Eastern Book Company.

Cases

- *AnuradhaBhasin v. Union of India*, (2020) 3 SCC 637.
- *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation*, [1948] 1 KB 223.
- *Coimbatore District Central Cooperative Bank Ltd. v. Coimbatore District Central Cooperative Bank Employees Association*, (2007) 4 SCC 669.
- *Council of Civil Service Unions v. Minister for the Civil Service*, [1985] AC 374.
- *Dev Singh v. Punjab Tourism Development Corporation Ltd.*, (2003) 8 SCC 9.
- *Ex-NaikSardar Singh v. Union of India*, (1991) 3 SCC 213.
- *Hind Construction & Engineering Co. Ltd. v. Their Workmen*, AIR 1965 SC 917; (1965) 2 SCR 85.
- *K.S. Puttaswamy (Aadhaar) v. Union of India*, (2019) 1 SCC 1.
- *K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
- *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.
- *Om Kumar v. Union of India*, (2001) 2 SCC 386.
- *Ranjit Thakur v. Union of India*, (1987) 4 SCC 611; AIR 1987 SC 2386.
- *Union of India v. G. Ganayutham*, (1997) 7 SCC 463.