

ADMINISTRATIVE LAW OF MALAYSIA AND SINGAPORE. By M.P. JAIN  
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PROFESSOR Jain's second edition of *Administrative Law of Malaysia and Singapore* comes as a relief to those who lament the dearth of local publication, in recent years, on constitutional and administrative law. Not

since the first edition of Professor Jain's book of the same title has there been any serious attempt by scholars in Malaysia and Singapore to produce a comprehensive and up-to-date work as this on administrative law. It is not true that administrative law never developed; in fact, as was rightly noted by the author in the preface of the book, administrative law is one of the fastest growing branches of legal discipline in the common law world. Perhaps, this is another sad instance where legal scholarship has been languid in catching up with case law developments. Hence, Professor Jain's recent book provides an excellent opportunity for those interested to further their understanding of the subject, particularly in the light of the recent decisions both in the United Kingdom, and in Malaysia and Singapore.

The author's treatment of the subject in the book is varied. In approach, although one would hasten to add not in content, it appears that the book emulates another classic text on the same subject: Wade on *Administrative Law*. In short, the primary style is expository and analytical. This treatment provides not only a succinct summary of the relevant cases, but also the benefit of the comments by the author. This is clearly preferred to some of the other law books which are essentially nothing more than a summary of cases. Additionally, Professor Jain also attempts to provide a comparative perspective by drawing on examples from the other jurisdictions; particularly the United Kingdom, India and the United States. While a comparative perspective is understandable, one might add that moving from one country to another can be rather distracting to the researcher who may be interested in only distilling the relevant principle of law.

In terms of organisation, the author divides the book into 18 chapters, covering most of the topics addressed in administrative law. On closer examination however, the book may be broken into five parts.

The first part, chapters 1-4, comprises the standard introduction to the subject. Most texts on administrative law would invariably trace the growth of administrative authorities in this century, the need for administrative law, and the constitutional doctrine of separation of powers and the rule of law. The approach here is no different. That said, one would add that too much emphasis has been given here to the developments in the West. One question that a reader here would perhaps want to know is, how do these developments, *i.e.* the expansion of the role of the state, the separation of powers and *droit administratif*, relate to the local context. How has the changing administration, from pre-colonial times to the present day, affected the interests of the people here?

The chapters on subsidiary legislation form the next part of the book. Here Professor Jain examines the factors which led to the growth of delegated legislation, the definition of subsidiary legislation, the procedural requirements and the various controls on delegated legislation. The coverage of the topic is both comprehensive and sufficiently detailed. In particular, one interesting question which the author raises is whether statutory exclusion of judicial review of subsidiary legislation would be sufficient to prevent the courts from interfering. On the point of organi-

sation of chapters, it would appear rather odd that the chapters on subsidiary legislation should appear so early in the book; particularly when one would expect a discussion on administrative powers to follow from the introductory chapters. Possibly, one reason for this early introduction stems from the relative importance of subsidiary legislation in the context of modern administration.

Part three, chapters 8-10, deals with the important function of administrative adjudication and procedural justice. The author begins by comprehensively describing the adjudicatory bodies that may be found both in Singapore and Malaysia. This is followed by a discourse on what is possibly one of the foundations of administrative law - natural justice. Since the celebrated House of Lords' decision of *Ridge v. Baldwin* [1964] AC 40, the issue of the scope of natural justice has never been clearly settled. The author rightly recognises this by devoting an entire chapter on discussing the boundaries of natural justice. The discussion here should prove useful in elucidating the decisions that have emerged on the subject. Apart from discussing the principles of natural justice, one interesting question which the author raises relates to the effect of failing to observe principles of natural justice on the administrative decision; is the decision void *ab initio* or is it voidable? Professor Jain concedes that this is an area which is shrouded in a great deal of uncertainty. His exposition on this subject should advance our understanding of the issue of void and voidability.

The next part of the book, chapters 11-15, deals with a very important subject of administrative law; the control of administrative powers, primarily through the instrument of judicial review. This section rightly begins with a discussion of the nature of administrative powers, and in particular, discretionary powers. Modern administration with all its complexities cannot proceed without discretion being conferred on the officials to make decisions. This is to enable decisions to be tailored to fit the requirements of particular situations. Yet, in conferring discretionary powers of decision making, the question which has been of primary concern has been the prevention of abuse of powers. The chapter on discretionary powers discusses questions of control by the courts of such powers through the doctrine of *ultra vires*.

Apart from looking at discretionary powers Professor Jain also examines the question of judicial control of administrative action from the perspective of remedies. This has been divided into two chapters; one on the usual prerogative remedies and the other, with some exception within the chapter, on remedies usually related to private law. On a small point of wording, it seems odd that the two chapters devoted to discussing the nature of public law remedies should be differently called. One is called "Judicial Control of Administrative Action", while the other is called "Judicial Review of Administrative Action". This leaves the reader guessing whether the difference is intended. On a more substantive point, the writer feels that the discussion here is a little disappointing. To the student of administrative law the different technical requirements for the different remedies may be confusing potentially. To begin with, given the similar effects between prerogative remedies and the ordinary rem-

edies, (*i.e.* between, for instance, prohibition and injunction) a focused discussion on which of the remedies would be most appropriate under what particular circumstances would help to elucidate the differences to the student. Additionally, most standard texts would devote a separate chapter on the important issue of standing and not, as is the case here, incorporate it together with the general discussion on remedies. This is perhaps an obvious omission in the book.

The final part, comprising the rest of the book looks at the other topics normally covered by a text on administrative law. These include governmental liability, right to information, ombudsman and public undertakings. Of particular interest is the discussion on accessibility to information as a means of controlling government. A fair number of Western countries are moving towards freedom of information legislation to allow for a more open government and participatory democracy. One could almost detect a note of wishful thinking on the part of Professor Jain for such similar legislation to be introduced locally when he quoted HRH Rajah Azlan Shah as saying that a Freedom of Information Act would greatly improve the quality of trust in this country.

All said, the book should be regarded as an authoritative text on administrative law in Malaysia and Singapore. The coverage of local case law is very comprehensive, and the writing is clear and easy to read. It is a book which no serious student of administrative law can do without.