

‘ADMINISTRATIVE JUSTICE IN CONTEXT’ – A NEW BOOK WHICH REFLECTS THE GROWING INTEREST IN ADMINISTRATIVE JUSTICE

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Until recently, the term ‘administrative justice’ was not one that many people – except perhaps a few academics and researchers – were familiar with. Now, its meaning is largely taken for granted. In his recent book *Administrative Justice and Tribunals*, Peter Cane refers to it as ‘a ubiquitous idea’ and notes that, ‘especially in the UK, the language of administrative justice has gained wide currency’. The discussion, in the 2004 White Paper on *Transforming Public Services: Complaints, Redress and Tribunals*, of the ‘administrative justice landscape’ and the establishment in 2007 of the Administrative Justice and Tribunals Council to ‘keep under review and influence the development of administrative justice in the UK’ would seem to provide strong supporting evidence for this claim.

In 1997, with the support of the (then) Lord Chancellor’s Department, Martin Partington organised a very successful ‘International Conference on Administrative Justice’ at the University of Bristol. 33 of the 50 papers were subsequently published in a book, entitled *Administrative Justice in the 21st Century*, edited by Martin Partington and Michael Harris. However, most of them were concerned with tribunals, or ombudsmen or judicial review, i.e. with the institutional components of what we now call the ‘administrative justice system’. Thus, with the exception of one sceptical paper by Terence Ison – who equated administrative justice with administrative remedies, which he regarded as a very ineffective means of enhancing the quality of administrative decision-making, and denied that there were any general principles of administrative justice, and argued that it was always ‘context specific’ – and a speculative paper by Brian Thompson – which outlined a ‘grand plan’ for integrating the various elements of administrative justice – there were few other attempts to analyse the concept of administrative justice or to think in terms of the ‘administrative justice system’ as a whole.

My dissatisfaction with this state of affairs provided the motivation for an application to the ESRC in 2005 under its Seminars Competition for a grant to support a series of seminars on

administrative justice. In my application to the ESRC, I noted that research on administrative justice was still characterised by an institutional division of labour – those who had undertaken research on particular modes of dispute resolution between the citizen and the state, such as complaints procedures, ombudsmen, appeal tribunals and judicial review, were familiar with research in that field but not necessarily with research in related fields. One aim of the seminars was therefore to bring together those who had undertaken research on these sub-divisions of administrative justice in the expectation that it would lead to a cross-fertilisation of ideas and to a greater understanding of ‘administrative justice’ as a whole. A related aim was to encourage communications among researchers in different academic disciplines, in particular law, political science, public policy, sociology, social policy and accounting. A third, and equally important, aim was to encourage a dialogue between academics on the one hand and representatives of the various stakeholders in the field, who included members of the AJTC, tribunal judges, ombudsmen, auditors and policy makers, on the other. The application to the ESRC was successful and a grant of £15,000 made it possible to plan a series of five seminars on administrative justice.

The five seminars were held over a 15 month period between March 2006 and June 2007. Individual seminars attempted to review the current state of theoretical work on administrative justice, broadly defined as work concerned with the justice and fairness of administrative procedures; to consider some important contextual changes, such as changes in governance, management, audit and IT, and, in each case, to assess their implications for administrative justice; to assess the current state of ‘administrative justice’ in the UK, in particular the balance between external and internal forms of accountability and the degree of co-ordination between them, and to consider how administrative justice might be enhanced.

A total of 15 papers were presented at the five seminars. In addition, at the final seminar, there were four ‘round table discussions’ (one each for academics, ‘users’, stakeholders and funding bodies) at which research priorities were discussed. Each of the 15 papers was circulated in advance in order to ensure that participants had read it beforehand. The session at which it was discussed was introduced by two discussants with the author being given an opportunity to respond to their comments and those of other participants. This formula worked well at the first seminar and was adopted throughout the series.

The range and quality of the papers presented during the seminar series was of such a high standard that it seemed appropriate to use them as the basis for an edited book on administrative justice, which would reflect the current state of thinking on administrative justice as it emerged from the shadows and moved centre stage.

In proceeding from the seminar papers to the book, it became clear that there were some important gaps which needed to be filled. For example, I felt that insufficient attention had been paid to developments in human rights and their implications for administrative decision making. And, as a counterbalance to the emphasis on theoretical work in the seminar series, I also felt that there needed to be a more sustained assessment of recent policy developments in the UK. In addition, although there had been some notable seminar contributions from scholars from outside the UK, I felt that the concerns addressed in the seminar series were perhaps too parochial and that the book should have more of a comparative or international flavour. A number of additional contributions (from experts who did not take part in the seminars) were therefore commissioned and their inclusion has, in my view, substantially strengthened the collection.

The book, entitled *Administrative Justice in Context*, is divided into five groups of chapters, each of which reflects a particular set of concerns. Since administrative justice is not a set of normative principles that exist in splendid isolation and the context in which administrative decision-making takes imposes constraints on the actual and potential achievement of administrative justice, the first group deals with the impact on administrative decision making of what I consider to be the five most important ‘contextual changes’: changes in governance and public administration; changes in management and service delivery; changes in audit and accounting techniques; changes in information technology; and the stronger protection for human rights that has resulted from the passage of the Human Rights Act 1998.

The second group of chapters deals with conceptual issues and analytic approaches, i.e. with the concept of administrative justice and how it can be analysed and understood. The third group deals with the application of administrative justice principles to decision making by private bodies, such as financial institutions. The fourth group contains contributions based on contrasting approaches to administrative justice in some other countries (Australia, The Netherlands and Scandinavia). The final group of chapters deals with current developments in the UK. Here, individual chapters review the development of grievance mechanisms and

remedies against the state in the UK over the last 30 years, analyse the interface between complaints and appeals the separate procedures for dealing with them, compare the four main institutions and procedures for dealing with *citizen vs. state* disputes in the UK (courts, tribunals, ombudsman and ‘external review’) and investigate the boundaries between them, and assess recent legislative and policy developments in the UK.

The general approach of the book is both socio-legal and interdisciplinary. Thus, many of the authors use one or other of the social sciences in an attempt to throw light on the concept of administrative justice. A few of the chapters adopt a (more or less) doctrinal approach but others, in particular those which deal with the impact of societal developments on administrative justice, embody a ‘law in context’ approach. I very much hope the book will be of interest, not only to academics and researchers – particularly to lawyers with interests in administrative law and social scientists with interests in public administration, public sector management and social policy – but also to a wide range of stakeholders in the administrative justice system and members of the public who wish to understand and improve it.

Administrative Justice in Context, edited by Michael Adler, was published in paperback by Hart Publishing (ISBN 9781841139289) on 30 April 2010. The list price is £50.00 but it can be obtained more cheaply from Amazon.