

Spanning the Divide

“[Administrative tribunals] may be seen as spanning the constitutional divide between the executive and judicial branches of government.”

Ocean Port Hotel Ltd v British Columbia (General Manager, Liquor Control and Licensing Branch), 2001 SCC 52

Few people are familiar with, much less understand, this short statement from a 2001 decision of the Supreme Court of Canada. Yet, the sentence encapsulates one of administrative law’s most fundamental principles. For an area of law that is so important to the everyday lives of the public, it’s ironic that administrative law and principles remain elusive to all but the most deeply initiated. There is a wide gulf between the lived experience of those who might seek to obtain a license, challenge an eviction, or try to appeal their tax assessment, and the apparatus and apparatus behind such processes.

But help is on the way. In a new book entitled *Administrative Law in Practice*, authors Lorne Sossin and Emily Lawrence have created a wonderful resource for lawyers and paralegals, educators and students, and those in the broader community who provide supports to the public. It is an important contribution to bridging the access to justice gap.

The fact that Sossin and Lawrence have taken on and delivered this resource isn’t surprising. Sossin is well known for being both a substantive expert and a crusader for bringing “design thinking” to the law. This movement posits that legal processes and their application should be designed to respond to how the public engages and experiences the law—and, most importantly, what they are looking to achieve through that journey. Lawrence brings many years of experience as an administrative law practitioner. Given these diverse backgrounds, the result is a book that is comprehensive without being confounding, and, true to another principle of administrative law, decidedly purposive.

Administrative Law in Practice is brilliantly organized, with both a short and detailed table of contents, an index, and a glossary. Substantively, it starts with the constitutional foundations of administrative law, the relationship of tribunals to government and the courts, and the principles of delegated authority. It covers in clear and understandable language the basics of natural justice, such as independence, bias, and the right to be heard. It provides a step-by-step guide through the hearing process, focusing on conceptual as well as practical considerations. It provides an explanation on the various ways to challenge administrative decisions through the courts.

The book has two additional sections which will be particularly useful for anyone who delves into the area of tribunal practice.

First, it explores mediation and alternative dispute resolution processes. There are of course many resources that cover these approaches to dispute resolution, but here, Sossin and Lawrence fully integrate the discussion into the specific context of administrative law procedure, and again with a focus on practical outcomes. It is at once a “how-to” primer, and a guide to operating strategically, with the “end game” always in mind.

Second, the book devotes an entire section to tribunal procedure, conducting a hearing, and decision making. It makes the book an invaluable resource for tribunal administrators, counsel, and adjudicators,

as well as tribunal users who want to gain insight into how tribunals work (or at least how they should be working.)

There may be some who argue that *Administrative Law in Practice* is not for everyone. They will argue that it is written in a way that will remain inaccessible to many, and does not address the needs of the large numbers of self-represented litigants who appear before Canadian agencies, boards, and tribunals. This may be true, although as lawyers we need to be careful when we make assumptions about who “they”, the public are, and what they need or are able to understand. We need to remember that the world is made up of more than legal experts, on the one hand, who can understand and engage with the law, and on the other, everyone else, for whom simple, plain language guides are all that they are capable of understanding, or entitled to access.

Thankfully, the reality is quite different. Recent studies have shown that the public seeks out legal information and support from a range of sources: a rural legal generalist, a librarian, a community health professional. The first point of contact for many individuals when they experience legal challenges will likely not be an administrative law specialist. There is an evolving movement, in recognition of this reality, to ensure that there are adequate and reliable resources for these “trusted intermediaries” and legal generalists. For this group of service providers, the book hits a sweet spot.

Administrative Law in Practice will be an essential handbook for the student appearing in their first case, a quick reference for the expert practitioner, and a comprehensive resource for everyone in between. It will be the go-to reference for the tribunal adjudicator and the trusted companion for the community support worker. With *Administrative Law in Practice*, Sossin and Lawrence have been able to span the divide between public legal information and legal advice, concept, and strategy, helping to reconcile the inherent complexity of many legal issues with the importance of promoting individual agency for those with legal problems. *Administrative Law in Practice* will play an important part in connecting the aspirational goals of the law with the hope of justice for all.

Michael Gottheil is the Chief of the Commission and Tribunal, Alberta Human Rights Commission. He was formerly the Executive Chair, Social Justice Tribunals Ontario. Over 30 years, Michael has served as a tribunal chair, adjudicator, mediator, lawyer, educator, and business professional.