

## CONCEPT OF EQUALITY BEFORE LAW SPECIAL REFERENCE TO RULE OF LAW

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### **ABSTRACT:**

The fundamental rights of the English people are protected by the so-called 'rule of law'. According to Dicey's law, governance has three meanings:

The first means that 'no person shall be punished or may be legally harmed in body or property, except for violation of the rules laid down in the ordinary land courts. This opinion suggests that no one in the UK can be punished arbitrarily. All those accused of a crime should be tried in an ordinary court and no one should be arbitrarily deprived of his rights and property. The case must be tried in open court and the accused has the right to be represented and defended by a forum of his choice. The judgment will be handed down in open court and the defendant has the right to appeal to higher courts.

The second rule of law is equality before the law. "Not only do we have a man above the law, but every man here, whatever his place or position, follows the common laws of the land and is subject to the jurisdiction of the high court," observed Daisy. It means that every citizen in Britain, rich or poor, high or low, is subject to the same law and the same courts. If a public official wrongs a person or exceeds the statutory authority, he can usually be arrested in an ordinary court.

Third, the rule of law means starting with the English principle of the Constitution: "The result of judicial decisions determining the rights of individuals in various cases brought before the courts." The chief stressed the role of the judiciary in protecting the rights and freedoms of the British people in the UK, the rights of citizens go beyond judicial decisions rather than the Constitution.

**KEYWORDS:** Rule of law, Supremacy of law.

## **INTRODUCTION:**

The rule of law has a vital role to play in the development of Indian democracy. At the time of writing the constitution, the framers of the constitution had two options namely USA and UK. Some of the comments were passed from the USA and some from the UK. The rule of law was adopted from England by our constitutional father and many provisions were incorporated in the Constitution of India. The Constitution of India is considered supreme and no one is above the Constitution of India. The rule of law is also expressly given in the preamble and such a constitution is contained in Part III of the Constitution of India.

In case of violation of such right, a person can approach the Supreme Court or High Court under Articles 32 and 226 of the Constitution of India. The Constitution of India is rich in legal principles i.e. justice, fairness and freedom. Any legislation enacted by the Central Government or the State Government must be in accordance with the Constitution of India. If any law made by the Legislature is contrary to the provisions of the Constitution, such law shall be declared void.

Under Article 3 of the Constitution of India, the Supreme Court has jurisdiction to issue writs by way of habeas corpus, pardon, prohibition, quo warrants and certiorari. The power of judicial review has also been vested in the Supreme Court to prevent any ultra-virulent legislation that could uphold the rule of law.

## **LITRATURE REVIEW:**

1. Union India v. India v. Raghbir Singh

In this case it was designed by the court that it administers the lives of the people and controls the policy of the state to a significant extent, flowing from the decisions of the higher courts.

2. Chief Settlement Commissioner, Punjab v. Govt. Omprakash

In this case, the Supreme Court observed that in our constitutional system, the most important and most significant is the concept of the rule of law, which means, in the present context, the right of the courts of law to review all administrative cases as they follow legal principles. An administrative or administrative action does not meet the criteria if the excluded person considers it.

3. Keshavanand Bharti Vs.The State of Kerala

In this case, the Supreme Court recognized the concept of the rule of law as one of the most fundamental elements of the fundamental principle of the constitution.

#### 4. Maneka Gandhi Vs Union of India

In this case the Supreme Court declared that Article 14 strikes at obscenity.

### **OBJECTIVES:**

1. To study Doctrine of Rule of Law.
2. To study Judiciary on rule of law.

### **HYPOTHESES:**

1. The Constitution of India is considered supreme and no one is above the Constitution of India.
2. The rule of law is also expressly given in the preamble and such a constitution is contained in Part III of the Constitution of India.

### **RESEARCH METHEDODOLOGY:**

This research based on secondary data analysis only.

### **RULE OF LAW:**

The traditional meaning of the rule of law as given by A V Dicey means three things:

1. Supremacy of law - It refers to absolute supremacy of law rather than arbitrary power of govt. One can be punished only for breaking the law and nothing else.
2. Equality before the law - Submission of all classes under the common law of the land. No one is above the law.
3. The Constitution is the result of laws defined by the courts. Although this rule does not apply to all countries whose constitutions evolved from careful planning.

Now coming to your question, the above views are also true in the current conception of constitutionalism. A constitutional order refers to the principle of limited government. It is important to note that a country may have a constitution but it may not. China has a constitution but no constitution, because they have a full government. Without limits.

If we take the example of India, the Constitution has a provision of fundamental rights (one-third of the Constitution) which is the highest test by the government. It also provides for

equality before law (Art. 14) and supremacy of law (the constitution is the law of the land) where no law can violate the constitution. Apart from this the Supreme Court has from time to time expanded the concept of rule of law and tried to include some concepts which may not necessarily come under the concept of rule of law but nevertheless fulfill its purpose. Such as - (a) Right to welfare (b) Right to information informing you about the affairs of government. (C) Right to fast payment (d) Right to legal counsel. Etc. These are examples of some contemporary practices in the rule of law that are nothing more than indirect support for the presence of the rule of law in our Constitution. As society develops, it will continue to expand.

### **ROLE OF JUDICIARY IN INDIA:**

There are a large number of cases where the concept of rule of law was discussed and emerged. Some of the cases are as follows.

ADM Jabalpur Vs. Shivkant Shukla

This case is also known as the "Habis Corpus case". This is the most important case when it comes to the rule of law. The question before the Hon'ble Court was whether there was any rule of law in India other than Article 21 of the Constitution of India. It was a reference to the declaration of a state of emergency with the suspension of the implementation of Articles 14, 21 and 22.

Mon Raj vs. Haryana State

In this case it was held that the absence of arbitrary power is a condition of the rule of law on which the whole constitutional system depends.

Gadakh Yashwantrao Kankarrao Competition. Patil and Balasaheb

In this case, if the mandated contribution is to preserve the rule of law as a foundation of democracy whose electoral purity is essentially relevant, it is the duty of the courts to appreciate the evidence and formulate the law. This will serve a higher purpose and will not allow acceptance of declining electoral standards, much less support, nor simplification. The rule of law must govern democracy in order to survive, and to govern the country properly the best available men must be elected as representatives of the people. This can be achieved by men of high moral and ethical standards, who win elections not by a negative abolitionist vote based on the comparative performance of candidates, but by a favorable vote obtained on their merits.

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The Constitution Bench of this Court has laid down the rule in the following terms: "It is, therefore, obvious that the adherence to the regime of physical equality (ing people making laws), and thus made known in advance (not used in retrospect for pre-existing behavior when it wasn't illegal to do so), people could plan and could arrange their lives to conform to the law without fear of arbitrary punishment, arbitrary, and unjust. What is needed, indeed the defining feature, is a free society. If people know what the limits of acceptable behavior are, they can openly and freely do whatever they want within those known and stated limits.

### **CONCLUSION:**

A contrasting situation, called "populism," occurs when the people who make the law think they are above the law; it was said, "The king can do no wrong." AS AN EXPLANATION. It also means that this infallible ruler can CHANGE HIS MIND at any time, for a good reason or even for an arbitrary, whimsical, or stupid reason, and do something illegal that didn't happen before, and punish people for doing something that is not illegal when that person is doing it. Thus, people in such a society CANNOT and cannot plan their lives to conform to the rules, since they can change at any minute without notice, and thus cannot live without fear of arbitrary, arbitrary punishment, and unfair. If people don't KNOW what the limits of acceptable behavior are, then instead of openly and freely doing whatever they want within those known and stated limits, they have to cower in fear and avoid doing ANYTHING unless it's a totalitarian government it specifically allows them to do so — which they're expected to bow to gratefully — or unless ordered to do so by a despot.

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