

RULE OF LAW IN DEMOCRATIC COUNTRY

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ABSTRACT

This particular research work is about to rule of law there is one legal concept that is mostly followed in democratic countries that is an ordinance of law. Democracy is based on equality and rights. It means all are equal before the law and no discrimination is made between one and the other. Law is a system of rules and guidelines that are used to regulate the life of the people.. ‘, was help in enforcing discipline in the society. Without laws, there would be chaos and everybody would want to do things their way. Rule of law is known as all the person/citizens are under the same law and everyone obeys it. The rule of law is most pressing, desires and sine qua non for the ordered, stable, and confidence inspiring society. It pervades the social organization and political arrangement in the form of state from the very beginning.

Keywords: Democracy, Equality, Rights, Article, Law

INTRODUCTION

Rules of law also imply that no one is above the law and order. It is not defined under the Indian constitution. But the Indian constitution judicial system uses the term many times in its Judgements. Society is the general acceptability of the validity of the constitution. Constitution is the validity of the ipso facto. People must accept all the rules rather than oppose them. If the powerful leaders do their arbitrators, then the concept of a democratic country will gradually end. The constitution is a body of sovereigns that's why it's more important today to secure our India.

It may be contrasted with the rule of people. In all civilized and ordered societies, the government desired to be is the law by government and not by the government of people. The government of men shows dictatorial tendency, arbitrariness, and unchecked use/misuse of are the quite opposite to the concept of the idea of ordered society through it. The violent disturbance is an administration of the paralyzing state and it is very dangerous for the unity

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and integrity of the democratic country¹. Threat to rule of law it may be from an individual dictator or even from elected despots. So, a thorough study of the rule of law is presented in this essay. One of the main reasons posing threat to the rule of law is the emergence of a welfare state guarding and providing more and more discretionary power to the administrative agencies.

USED OF DISCRETIONARY POWERS

Discretionary power means authority or agency has the power to choose reasonable decisions². One of the main reasons posing threat to the rule of law is the emergence of a welfare state guarding and providing more and more discretionary power to the administrative agencies.² At the juncture of the changes of states concept from laissez-faire to social serve or welfare. The abstraction of the rule of law in the course of his lecture at Oxford University. It can be found in the form of his systematic study in his celebrated book Law of the Constitution. His basis of the study was a comparison between the French and U.K. systems as in the former much discretionary powers were used by the administrative officials. His idea was (it still holds well) that wherever there is discretion there is room for arbitrariness.

Thus, it is based on three criteria. First, absence of discretionary powers in the hands of the government official; that is to say justice must be administered through known principles. Second, if a person bought his property or land, he has to ensure that he is obeying all rules and the person should show the papers of property to the government also. Specific permission is required from the court. So, in this way, it has three components;

- (i) Absence of privileges for a government official or any other person;
- (ii) The persons irrespective of status must go to the ordinary courts for land/property; and
- (iii) All people have to be passed the papers of the land on the court.³

Dean's concept is appreciable so far as it speaks of equality and Supremacy of law has developed beyond imagination, given more and more welfare measures entrusted to do executive branch, lack of time and expertise on the part of legislature, dilatory process of

¹ (Report of commission on centre state relationship p. 165)

² Supra Note 1

³ <https://www.legalserviceindia.com/legal/article-656-constitutional-principle-doctrine-of-rule-of-law-comparativeanalysis.html> Constitutional principle-Doctrine of Rule of law-Comparative

ordinary courts, etc. With the changing and expanding scope of administrative agencies, more and more check on administrative agencies is required in front of fairness, non-arbitrariness, the supremacy of law, and overall the independence of the judiciary.

EQUAL SUBJECTION TO LAW

Equal Subjection to the law as an aspect of the law has been ordinance, incorporated under our constitution. Article 14 of the constitution speaks, “the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The Supreme Court of India has reinterpreted equality in light of the law. The requirements of the rule of law that power should not be exercised arbitrarily found full application in the interpretation of equality with a new dimension in *E.P. Royappa v. State of Tamil Nadu*.⁴

Adivasi, Dalits, Muslims, women come under marginal groups. These groups argue their rights that are equally important for all citizens. The constitution provides Fundamental Rights which is for including them also. Equality has been important it cannot be based on gender, sex, caste. It should be given to all because it is their fundamental right. It is important in every aspect that no one offends with it and it also helps to make uniform people that is necessary for a democratic country and freedom to speak about it has their rights. Rule of law enshrined inequality clause had added dimension of fairness, reasonableness, and non-arbitrariness in a sequence of *Royappa v. State of Tamil Nadu*, *J. S. Mehta v. Union of India*, and *Maneka Gandhi v. Union of India*.⁵ Article 14 Liberty to thought, equality of opportunity, to promote all citizens that they are equally treated and all the laws are in their favor. Article 14 says about treatment and behavior with all persons in aspects of equality. It is essential for making a secular state and other extra activities. The acceptance of fairness in the exercise of administrative power as an element of the rule of law has been enforced by the Supreme Court in several cases, and the Supreme Court is instead on the fairness dealing with women in police lockup and the case of the state of M.P v. *Ramana Shankar Raghuvanshi*.⁶

⁴ *Royappa v State of Tamil Nadu* A.I.R. 1974 S.C. 555

⁵ *Maneka Gandhi v. Union of India* A.I.R. 1983 S.C 587

⁶ *State of M.P v. Ramana Raghuvanshi* A.I.R 1983 S.C 374

ABSTRACTION OF THE RULE OF LAW

The abstraction of rule of law extends, to all administrative actions requiring then to be used for the purpose for which they have been granted, within the statutory ambit and be intra vires. However, as Dr. Baxi points out negation simple of arbitrariness would not be able to enough the preservation of the abstraction of law. The courts have inserted specific positive contents. First, the rules of genuine justice are to be observed not only in quasi-judicial actions but also in purely administrative action. Second, access to information is being required by the judiciary and, therefore, administrative agencies are required to give reasons. Third, securing of individual square-dealing of the State in economic activities and equitability activeness.⁷

The concept of rules plays a dominant part in the executive of the country. It plays so important part in English law that rule of Law is considered the Bedrock of English Law. The assumption of law that protects the people from the arbitrary laws of the state is known as the Rule of Law.⁸ After 1947 India got its independence and on 26th November 1949 Constitution of India was completed. It had many fundamental rights and directive principles. Fundamental rights like Article 14, Article 15, Article 19, Article 21 were directly inspired by the Rule of Law. The Constitution of India made it compulsory that there shall be rule of law in India and for that, the principles of genuine justice shall be followed in all courts, premises and government organizations.

In India rule of law is that even the parliament is not competent to amend the constitution to destroy the rule of law. To quote from *Keshvananda Bharti v. State of Kerala* case of law is a principle of the doctrine of the basic structure of the constitution, which even the comprehensive power of parliament inappropriate to amend in *Indira Gandhi v. Raj Narain* invalidating the constitution 39th amendment act, 1975 enacting clause (4) of Article 329-A and thereby immunizing the election of the prime minister from being declared void by any court, the apex court found that provision offending the rule of law.⁹

⁷ Upendra Baxi: *Developments in Indian Administrative Law*, in *Public Law in India*, (1982).

⁸ [Indianlawportal.co.in > principles-of-rule-of-law](https://indianlawportal.co.in/principles-of-rule-of-law/) Principles of Rule of Law – India N law Portal (<https://indianlawportal.co.in/principles-of-rule-of-law/>)

⁹ 1975 Suppl. S.C.C: A.I.R. 1975 S.C. 2299.

CONCLUSION

The law is based on true government because it's a basic criterion to establish a secular state. It is dependent on the judges who are not in favor of any one side and take a decision that is appropriate for its citizens. States should also obey the law because no one is above the law. It can be secured by federal structure. As the federal structure has a system in which parallel government has also its main role. There should also be a competition that takes an eye on the government that they are not using their powers for their welfare.

