

Rule of Law

Mohd. Umar, Department of Law,
Galgotias University, Yamuna Expressway
Greater Noida, Uttar Pradesh

Email ID: mohammad.umar@galgotiasuniversity.edu.in

ABSTRACT: *The definition of the Rule of Law is that the state is governed by the law, not by the monarch or the people's chosen representatives. India was meant by the Constitution of India to be a nation ruled by the rule of law. It allows for the highest power in the country to be the constitution, and the legislative and executive derive their authority from the constitution. The paper starts with an introduction to Dicey's three foundations of what a democracy must be founded on and how these three conditions are fulfilled by the Indian Constitution. After, the theoretical and practical implementation in India of this rule of law is discussed. The rule of law, the system, procedure, organization, activity, or norm that facilitates equality before the law for all people, guarantees a non-arbitrary form of government, and avoids the arbitrary use of force more broadly. Various types of despotism, absolutism, authoritarianism, and totalitarianism are characteristic of arbitrariness. Also strongly institutionalized modes of rule involve despotistic regimes under which the body at the apex of the power hierarchy (such as a monarch, a junta, or a party committee) is capable of behaving when it wants to do so without the restraint of legislation.*

KEYWORDS: *Constitution of India; Rule of Law.*

INTRODUCTION

The rule of law is a set of rules for maintaining an orderly and equitable society, or values. Many nations around the world are working to maintain the rule of law where no one is above the law, everyone is considered fairly under the law, everyone is kept responsible for the same laws, there are transparent and equitable law enforcement practices, there is an impartial judiciary, and everybody is granted human rights[1].

The principle of the "Rule of Law" is the cornerstone of modern democratic society. It is imperative that legislation and all contracts founded on law be upheld for the effective operation of the democratic system. To preserve equilibrium between the competing powers of society, laws are made for the benefit of the people. Maintaining law and order in society and maintaining a stable atmosphere for the advancement of the people is one of the key goals of making laws. In this phase, the idea of the Rule of Law plays an important part[1].

The word 'Rule of Law' derives from the French expression 'La Principe de Legality' (the concept of legality), which applies to a government founded on law and not on men's values. The rule of law implies, in a broader context, that law is supreme and above any human. No one is above law whether he is prosperous, poor, rulers or governed etc. and they should follow it. The rule of law means, in a broader context, that government power may be exercised only in compliance with the written rules followed by an existing practice. The Rule of Law theory is meant as a precaution against the unconstitutional behaviour of government officials. A "rare and protean principle of our political tradition" has been defined as the rule of law[2].

Central to the rule of law are "the values of regularity and restraint, embodied in the slogan of "'government of laws, not men'. The term Rule of Law does not include anything about how the rules are to be created, or anything concrete such as the Fundamental Rights or the values or equity of the Directive, etc., but it provides for two fundamental concepts that citizens must comply with the law and that the law must be created in such a manner that it will guide the behaviour of its subjects. Different legal scholars had different approaches to the Rule of Law principle[2].

Some assume that the rule of law has purely procedural attributes, that is, that the law must be declared officially, that it must be prospectively enforced and that it has the qualities of generality, equity and certainty, but that there are no conditions as to the substance of the law. While other legal scholars believe that the rule of law actually means that human rights are secured. These two approaches to the rule of law are considered as the two fundamental alternatives within legal philosophy, called the formal and practical approaches, respectively[3].

Absence of Unconstitutional Authority or Dominance of Law: According to Dicey Rule of Law, absolute supremacy of law implies absolute supremacy of law and 'no one is liable or may legitimately be forced to suffer in body or property except for a distinct violation of law before the courts of the land in the usual natural way. Dicey was of the belief that if he is a common citizen or a government authority, all persons are expected

to uphold the rules. He assumes that no one should be prosecuted for anything other than a previously proven violation of the law. And also that the alleged offence is required to be proved before the ordinary courts in accordance with ordinary procedure[4].

Equality before law: According to Dicey, the rule of law implies, in the second principle, equality of law or equitable subjection of all groups of individuals to the ordinary law of the land regulated by the courts of ordinary law. In this way, the rule of law means that no person is above the law. And federal officials have a responsibility to abide with the same rule, and no other special courts can deal directly with their concerns[5].

The constitution is the product of the ordinary rule of the land: according to Dicey, the written Constitution of a country includes protections such as the right to personal security, freedom, imprisonment, etc. in certain nations. In England, however, these privileges are the result of court rulings that have arisen as a result of disagreement between the parties. The Constitution is not the root, but the product of individual rights. But this Dicey theory is not valid in India as we consider the Constitution to be the central ground work of laws from which all other laws are derived in India[5].

DISCUSSION

The rule of law is a complex term, but it is somewhat hard to describe. Some believe it to be the superiority of law; some believe it to be concepts such as clarity, universality, stability, etc. Each entity has their own way of interpreting the rule of law. Any ingredients of the Rule of Law have been established for all these purposes and all that must remain for the definition of the Rule of Law to thrive[6].

In its entirety, Dicey's theory of the rule of law cannot be recognized today. The current definition of the rule of law is fairly general and thus creates an ideal to be achieved by every country. The International Commission of Jurists has established this conception. Identified as the Delhi Declaration, 1959, which was confirmed in 1961 by logos later on[6].

The rule of law means, according to this formulation, that the duties of government in a democratic society should be practiced so as to establish circumstances in which the dignity of man as a person is preserved. This integrity requires not only the acknowledgment of certain civil or political rights, but also the establishment of certain political, social, economic, educational and cultural conditions which are important for his personality to fully grow[7].

In fact, the rule of law is the very base stone on which the platform of democracy rests. It is known as an integral feature of a democratic system. Democracy's strength lies in respecting others' interests and the way they want to express themselves by expression, writing, painting, drawing, etc. And, above all, the rule of law entails non-arbitrariness, which can be guaranteed by the protection of rights, and freedom of speech and expression is one of those freedoms[7].

The definition of the Rule of Law is that the state is governed by the law, not by the monarch or the people's chosen representatives. A county that enshrines the rule of law will be one under which the country's Grundnorm, or the fundamental and central law through which every other law derives its force, is the supreme state authority. The rules originating from the Grundnorm control the king or the members of the republic and their powers are regulated by the statute. The king isn't the law, but the king is the law[8].

During the establishment of the first republic, the origins of the philosophy of the Rule of Law can be traced back to the Ancient Romans; it has since been promoted by many medieval philosophers in Europe through the theory of social contracts, such as Hobbs, Locke, and Rousseau. In their own way, Indian thinkers such as Chanakya have often promoted the principle of the rule of law by insisting that the King should be ruled by the word of law[8].

The Common Law framework for the delivery of justice, which owes its roots to British jurisprudence, is based on the Rule of Law. Dicey famously maintained that in order to retain government regulations, the Englishman would not require administrative legislation or any sort of written law, but that the rule of law and natural law will be adequate to guarantee the absence of executive arbitrariness. Though India also recognizes the notion of natural law and observes it, formal and written rules exist to ensure conformity[8].

India was meant by the Constitution of India to be a nation ruled by the rule of law. It allows for the highest power in the country to be the constitution, and the legislative and executive derive their authority from the constitution. Any legislation made by the legislature must be consistent with the inability of the Constitution to be found void, as provided for in Article 13. (1). Article 21 allows for a further check against unconstitutional executive intervention by providing that, except in compliance with the process provided for by statute, no person shall be deprived of his life or liberty[9].

Article 14 guarantees that all people are equal and that no one is discriminated against on the basis of sex, gender, race or place of birth and, ultimately, ensures that a division of powers occurs between the three branches of government and the executive branch and that the legislature has no authority over the judiciary. By these means, all the conditions of Dicey's principle to be accepted as a country upholding the Rule of Law are fulfilled by the constitution[9].

Generally speaking, the rule of law ensures that the creation of laws, their compliance, and the relationships between legal regulations are themselves constitutionally controlled, meaning that no one is above the law, even the top ranking official. The legal restriction on rulers implies that, as well as its people, the government is bound to current laws[10].

The concept of equality before the law, which holds that no 'legal' person shall possess rights that are not granted to others and that no person shall be exempt from legal punishments, is therefore a closely connected notion. Furthermore, the implementation and adjudication by separate governing authorities of legal laws should be unbiased and compatible in similar situations, made blindly, without taking into account the class, rank or relative authority of the disputants. Furthermore, in order for such ideas to have some meaningful purchase, a legislative apparatus for requiring officials to adhere to the legislation should be in effect[10].

CONCLUSION & IMPLICATION

India's founding fathers did what was impossible for the rest of the world, establishing a government that would obey the spirit of the law and uphold the rule of law. The Constitution of India has provided appropriate frameworks to ensure consistency with the Rule of Law in all matters, such as the protection of the rights of the people, fair justice before the law and protection against undue arbitrariness.

The courts have tried, through their rulings, to improve these structures to ensure the smooth administration of justice to all people. Problems such as redundant laws and overcrowded courts are just minor hurdles and organisations such as the Law Commission of India are trying to sort out these challenges in order to create a framework where there are no obstacles to the smooth workings of the Rule of Law.

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