

RULE OF LAW: A DETAILED ANALYSIS

Shreemh Agarwal¹

¹Student BA LLB, Bennett University, Greater Noida

ABSTRACT

Administrative law has evolved into a distinct field of study and practice over the past few decades, gaining recognition as a crucial area of legal education and professional expertise. In England, the concept of Dicey's Rule of Law has played a significant role in establishing the legitimacy of administrative law as a separate discipline. While the term "Rule of Law" is not explicitly defined in the Indian Constitution, it has been frequently invoked by the Indian judiciary in their decisions. The Rule of Law is more than just a legal rule or statute; it embodies a doctrine of state political morality that seeks to maintain a delicate balance between individual rights and governmental powers, fostering a society that is both free and civilized. It is the culmination of centuries of struggle by people to assert their inherent rights and establish a framework for governance based on principles of fairness and justice. This paper aims to provide a comprehensive analysis of the Rule of Law, exploring its origins, defining characteristics, and its significance within both the U.S. and Indian constitutional frameworks. It delves into the fundamental principles underlying the Rule of Law and examines its exceptions and limitations. Through a thorough examination of various sources, including scholarly journals, books, and articles, as well as utilizing online resources, this paper employs a Doctrinal Research Methodology to offer insights into this essential concept in modern legal and political discourse.

Keyword: - Rule, law, state political morality, correct balance, rights, powers

1. Introduction

Administrative law has emerged as a distinct field of legal study and practice in recent decades, gaining recognition as an essential area for both students and practitioners of law. In England, the concept of Dicey's Rule of Law has played a pivotal role in establishing the legitimacy of administrative law as an independent discipline. The Rule of Law, often regarded as the "lingua franca" of global moral thought, stands as a cornerstone of modern democratic societies, embodying fundamental principles of justice, equality, and accountability. While not explicitly defined in the Indian Constitution, the Rule of Law has been consistently invoked by the Indian judiciary in their rulings. The Rule of Law serves as a doctrine of state political morality, ensuring a delicate balance between individual rights and governmental powers, thereby fostering a free and civil society. Derived from the French phrase "la principe de legalite," meaning government based on the principles of law, the concept traces its origins to Edward Coke, who emphasized the subordination of the monarch to both God and the law. Coke's theory of the Rule of Law emphasizes several key objectives, including restraining government from authoritarian rule, preventing arbitrary exercise of governmental authority, ensuring equal application of laws regardless of status, and protecting individual rights. Additionally, it underscores the supremacy of law, the necessity for administrative actions to be subject to legal scrutiny, and the importance of conducting affairs in a legally correct manner. In essence, the Rule of Law serves as a foundational principle that upholds the integrity of democratic governance and safeguards individual liberties against encroachments by the state. As Lal Bahadur Shastri aptly noted, respecting the Rule of Law is essential for preserving and strengthening the foundational structure of democracy¹.

The Rule of Law is a complex and dynamic concept that defies precise definition, yet it serves as a fundamental principle in modern democratic societies. It stands in contrast to the rule of men and rule according to law, embodying principles of freedom, equality, non-discrimination, and accountability. The concept has both formative and ideological dimensions, encompassing organized power and the regulation of relationships between citizens and the government. Originating from ancient Greek philosophy and evolving through relational discourse, the Rule of Law asserts that no one, including the government, is above the law. It has been championed by prominent thinkers such as Plato, Aristotle, and John Locke, who emphasized its supremacy and role in ensuring justice and equality within society.

The Rule of Law encompasses several fundamental aspects. It curbs arbitrary actions by authorities, ensuring that power is exercised within legal boundaries. Individuals are protected from unjust punishment without proper due process. Equality before the law guarantees that legal principles apply universally, irrespective of one's status. This principle is foundational in most democracies and legal systems globally. Legal proceedings must adhere to fairness and independence standards, with impartial tribunals determining guilt. Albert Venn Dicey's elucidation of the Rule of Law in "The Law of the Constitution" (1885) emphasized its universal application and outlined three key postulates: Supremacy of Law, Equality before the Law, and Predominance of Legal Spirit. While Dicey's theory significantly shaped administrative law, critics argue it failed to distinguish discretionary from arbitrary power, and its focus on individual rights overlooked broader administrative powers. Despite its merits, Dicey's Concept of Rule of Law has limitations that warrant consideration in contemporary legal discourse.

In the United States, the Rule of Law holds a significant place within the constitutional framework. Drawing from medieval England's principle of "A government of laws, not of men," the adoption of the federal Constitution in 1787 introduced Constitutional Supremacy. Article VI of the American Constitution establishes the Constitution as the supreme law of the land, affirming the principle of Constitutional Supremacy. This principle underscores the foundational role of the Constitution in governing the nation, ensuring that all laws and actions conform to its provisions, thus upholding the Rule of Law. This concept finds expression in landmark cases such as *Marbury v. Madison*, where Chief Justice Marshall asserted the power of judicial review, affirming that acts of Congress conflicting with the Constitution hold no legal validity. Here, the American Constitution, alongside the authority of judicial review, serves as an extension of the Rule of Law²⁻⁴.

The American Constitution is underpinned by three fundamental principles: Federalism, Separation of Powers, and the Rule of Law. These principles are often regarded as the heart of the Constitution, as they work collectively to uphold principles of liberty, equality, order, and justice.

The American Constitution adheres to three basic principles:

The government is accountable both to the state and the people it governs, ensuring political accountability and responsiveness.

Legitimate authority originates from the people and is subject to their control, as articulated in the Preamble, which asserts that the Constitution is established by the people, not the government.

Supremacy of the Constitution: The American Constitution rejects political supremacy and the identification of laws solely with the legislature, declaring the Constitution as the supreme law of the land. In essence, the Rule of Law within the U.S. Constitution underscores the foundational principles of governance, emphasizing the supremacy of constitutional principles over arbitrary governmental actions and promoting accountability, popular sovereignty, and the rule of law as essential elements of democratic governance.

3. Indian constitution

The Rule of Law is a cornerstone of Indian democracy, shaping the foundation of governance and legal principles within the country. During the framing of the Constitution, Indian constitutional framers drew inspiration from various sources, including the United States and England, incorporating key elements of the Rule of Law into the Indian Constitution. In India, the Constitution is regarded as supreme, with no individual or entity placed above its provisions. The Preamble of the Indian Constitution articulates the principles of the Rule of Law, emphasizing justice, equality, and liberty. Central to the Rule of Law in India is the concept of equality before the law and equal protection of the law, enshrined in Article 14 of the Constitution. Fundamental rights, guaranteed under Articles 13, 14, 15, 19, 21, 22, 25, 28, and 31A, are available to every citizen of India. In the event of a violation of these rights, individuals have recourse to the Supreme Court or High Court under Article 32 and 226 of the Constitution, respectively. These provisions empower the judiciary to safeguard individual rights and ensure compliance with constitutional principles. Moreover, any law enacted by the central or state government must conform to the provisions of the Indian Constitution. If found to be inconsistent with the Constitution, such laws are deemed void. Article 32 of the Constitution grants the Supreme Court the authority to issue writs such as Habeas Corpus, Mandamus, Prohibition, Quo Warranto, and Certiorari, thereby enabling the judiciary to exercise judicial review and uphold the Rule of Law⁵⁻¹⁰.

In essence, the Rule of Law in the Indian Constitution underscores the supremacy of constitutional principles, the protection of individual rights, and the role of an independent judiciary in upholding justice and preventing the enactment of laws that exceed constitutional authority. Fundamental to the functioning of legal systems worldwide are several core principles encapsulated within the rule of law. The rule of law dictates that the law reigns supreme,

applicable to all individuals and entities equally, without exception. It mandates adherence to legal frameworks rather than arbitrary decision-making, ensuring that actions are governed by established laws rather than personal whims. Under this principle, no individual should suffer without clear legal justification, and the absence of arbitrary power is paramount, fostering fairness and justice. Central to the rule of law is the principle of equality before the law, ensuring that all individuals receive equal treatment and protection under legal frameworks, thereby safeguarding against discrimination and promoting equitable access to justice. Moreover, the exercise of discretionary powers must be constrained within reasonable limits set by law to prevent abuse and ensure accountability. Checks and balances within the legal system serve to curtail the potential for executive overreach, upholding oversight and accountability. An independent judiciary, free from external influence or bias, is indispensable for administering impartial justice and safeguarding the rule of law. Upholding fair legal procedures, including expedient resolution of legal matters, further ensures access to justice and prevents undue delays or injustices, thus reinforcing the rule of law as a cornerstone of democratic societies.

Several landmark cases in Indian jurisprudence have solidified the concept of the rule of law as an essential pillar of the Constitution. In *Kesavananda Bharati v State of Kerala*, the Supreme Court introduced the doctrine of basic structure, asserting that while parts of the Constitution can be amended, the core principles forming its basic structure are immutable. Similarly, in *Indira Nehru Gandhi v Raj Narain*, the court affirmed that the rule of law is intrinsic to the Constitution's basic structure, rendering it beyond the scope of amendment. *State of Bihar v Sonawati Kumari* emphasized that all authorities, including the executive government, are bound by the rule of law, obligating adherence to established legal norms. *Bachan Singh v State of Punjab* reinforced the principle that the rule of law prohibits arbitrary action, particularly in cases involving severe penalties like death sentences. Lastly, in *Som Raj v State of Haryana*, the court reiterated that the absence of arbitrary power is fundamental to the rule of law, serving as the cornerstone upon which the entire Constitution relies. These cases collectively underscore the significance of the rule of law in ensuring justice, equality, and the supremacy of legal principles within the Indian legal framework.

In the landmark case of *ADM Jabalpur v Shivkant Shukla*, also known as the Habeas Corpus Case, the Supreme Court addressed the question of whether the rule of law in India exists separately from Article 21 of the Constitution. The court, comprising a five-judge bench, ruled that there is no rule apart from Article 21 and emphasized that a separate rule of law cannot exist. Subsequently, in *Veena Seth v State of Bihar*, the Supreme Court extended the scope of the rule of law to include the poor, downtrodden, and illiterate sections of society, emphasizing that legal protections must extend to all, regardless of socioeconomic status. In *Union of India v Raghubir Singh*, the court emphasized the significant role of the rule of law in governing people's lives and regulating the functions of the state. Similarly, in *Chief Settlement Commissioner Punjab v Om Prakash & Ors*, the court asserted that law courts have the authority to test administrative actions based on the standard of legality. Furthermore, in *S.G. Jaisinghani v Union of India and Others*, the Supreme Court articulated the prerequisites of the rule of law, emphasizing that decisions must be made based on known principles and must be predictable to citizens. The absence of arbitrariness was reaffirmed as a crucial aspect of the rule of law in the *Second Judges Case*, also known as *Supreme Court Advocates on Record Association v Union of India*. Finally, in *Secretary, State of Karnataka and Ors v Umadevi and Ors*, the Constitution Bench underscored the rule of equality in public employment as a fundamental feature of the Constitution, highlighting the core principle of the rule of law in ensuring equality and fairness in governance. These cases collectively highlight the pivotal role of the rule of law in upholding justice, equality, and the supremacy of legal principles in India's legal system.

In addition to its fundamental features, the Rule of Law also encompasses certain exceptions that are embedded in the Indian Constitution. Firstly, Articles 361, 361(2), 361(3), and 361(4) grant immunity to the President and Governors. Secondly, foreign diplomats are provided with immunity under international law. Thirdly, Supreme Court and High Court Judges, including provisions like Article 121, are immune from discussions regarding their conduct in Parliament. Additionally, certain laws such as the Maintenance of Internal Security Act (MISA) and the National Security Act, 1980 (NSA), are exceptions to the Rule of Law. However, in modern times, the concept of the Rule of Law has evolved beyond Dicey's original formulation. The modern understanding of the Rule of Law, as articulated in the Delhi Declaration of 1959 and affirmed in subsequent meetings, emphasizes the protection of individual dignity within a free society. Various committees, such as those on Individual Liberty and the Rule of Law, Government and Rule of Law, Criminal Administration and Rule of Law, and Judicial Process and Rule of Law, have delineated aspects of modern Rule of Law, including safeguarding against discriminatory laws, ensuring due criminal process, and upholding an independent judiciary. According to Federalist Kim Davis, modern Rule of Law encompasses principles such as law and order, the principle of natural law, elimination of discretion through fixed rules, due process,

preference for judicial oversight over administrative actions, and the encouragement of political interest and government criticism. In essence, the modern conception of the Rule of Law strives to foster a society where governmental actions are guided by legal principles, individual rights are protected, and criticism of government actions is not only permitted but also valued as a cornerstone of democracy¹⁰⁻¹³.

4. Conclusion,

In conclusion, while the concept of Rule of Law may not be flawless, it has effectively regulated administrative powers and served as a guardian of constitutional principles across various nations. It stands as a crucial tool for establishing the supremacy of law within society. Efforts have also been made by the judiciary to align the Rule of Law with the protection of human rights, further enhancing its significance. The modern interpretation of Rule of Law, as proposed by David, offers a comprehensive framework that enables governments to operate with grace, bridging the gap between authority and individual liberties. By adhering to the Rule of Law, governments can enact rules and conditions that respect individual dignity without infringing upon rights. In essence, genuine freedom necessitates a legal framework rooted in the Rule of Law and justice, ensuring that the rights of all individuals are safeguarded without impinging upon the rights of others.

References

- 1 5 US (1 Cranch) 137 (1803)
- 2(1973) 4 SCC 225
- 3 1975 AIR 865
- 4 1961 AIR 221
- 5 AIR 1980 SC 898
- 6 1990 AIR 1176
- 7 1976 AIR 1207
- 8 AIR 1983 SC 339
- 9 1989 AIR 1933
- 10 1969 AIR 33
- 11 1967 AIR 1427
- 12 AIR 1994 SC 268
- 13 AIR 2006 SC 1806

