



The Indian Journal for Research in Law and Management

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Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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Rule of Law : Understanding its significance in upholding Constitutional order and Individual Liberties

Introduction

Rule of Law is the basis of any democratic society this term rule of law was originated from the French phrase La principle de legalite that basically means a government which is based on the principles of law. ¹The rule of law implies that every person is subject to the law, including persons who are lawmakers, law enforcement officials, and judges. It refers to the idea that everyone including government official and its institutions is subject to accountable under the law. This term was first introduced by Edward Coke he expressed the view that the king must be under the God and law of the land. But however this concept of rule of law was later developed by A.V. Dicey. In the realm of Governance and societal order, few principles are as fundamental and impactful as the rule of law. At its core, the rule of law represents the bedrock upon which democratic societies stand, ensuring accountability, fairness and the protection of individual liberties. In this blog we will understand rule of law its significance in upholding constitutional order and individual liberties.

Meaning of rule of law

According to A.V. Dicey the rule of Law has three meanings the first and foremost is Supremacy of law that means no man is punishable or can lawfully be made to suffer in body or goods except for a distinct breach of law that is established in the ordinary legal manner before the ordinary courts of law. That basically means no man can be punished except for a distinct breach of law. An alleged offence is required to be proved before the ordinary courts in accordance with the ordinary procedure.

¹ Rule of law, https://en.wikipedia.org/w/index.php?title=Rule_of_law&oldid=1213910580 (last visited Mar. 24, 2024).

The second meaning of rule of law is that no man is above law. Every man whatever be his rank, condition or position would be even if it is a government official is subject to the ordinary law of the realm and would be amendable to the jurisdiction of the ordinary tribunals. Thus rule of law in this means equality before law or every individual or entity are viewed equally by the law no one is special to it. In rule of law there is equal subjection of all classes irrespective of any kind of discrimination.

The third meaning of rule of law is predominance of legal spirit according to this the general principles of constitution are the result of judicial decisions determining the rights of the private person in particular cases that has been brought before the court of justice.

Significance of rule of law in upholding Constitutional order and individual liberties

The rule of law in reality is the guardian or protector of the constitution it preserves the democratic societies from disrupting and it essential for upholding the constitutional order in the societies Law treats everybody equally without any biases, which is the basic requirement of Rule of Law.² firstly the rule of law establishes limits on the exercise of government power by requiring that all government actions be authorized by law. It prevents government official or agencies from taking undue advantage of power. Therefore this prevents the arbitrary use of power and ensure that government officials act within the framework of legal authority granted to them by the constitution and laws.

In constitutional democracies the rule of law helps to maintain the separation of power among the legislature, executive and the Judiciary which is very much important in democratic societies. Each branch is bound by the law and has a defined responsibilities preventing one branch from dominating or infringing upon functions of others is essential. the idea of judicial review comes from there. The rule of law mandates that all laws and government actions must comply with the provisions of the constitution. This includes respecting fundamental rights that are guaranteed by the constitution and at the same time ensuring that any laws or policies that violate constitutional rights are subject to legal scrutiny and potential challenge. For example in India although the rule of law is not explicitly mentions in the constitution but its is one of the essential part of doctrine of basic structure. Various provisions have been incorporated in the constitution of India. The preamble of the

² Shwetha Singh, Rule of law and its relevance, Ipleaders, October 12th 2020, <https://blog.iplayers.in/rule-law-relevance/>

constitution of India clearly sets out the principles of the rule of law emphasizing justice, equity and freedom. Article 14 of the Constitution assures the equality before the law and equal protection of the law.³

Rule of law plays an impactful role in safeguarding individuals liberties. Under rule of law, individual are guaranteed due process of law, which includes the right to a fair and impartial trial in which both the parties will be heard without any discrimination. Furthermore legal representation and protection against arbitrary detention or punishment are included for safeguarding individual liberties. All of this ensures that individuals are treated fairly and justly by the legal system. One of the key aspect of the rule of law is the promotion of legal certainty and predictability. This allows individual to plan their lives, businesses, and activities with confidence knowing that their right and obligations are defined by law and will be upheld by the legal system.

Conclusion

In conclusion we say that The rule of Law plays an important role in the administration of the country. It forms the basis of democratic society. It provides protection to the people against the arbitrary action of the administrative authorities. It plays a crucial role in safeguarding individual liberties by promoting equality before law at the same time ensuring that due process and fair treatment are being followed. Rule of law is a part of doctrine of basic structure of constitution in democratic societies. Together, these aspects highlight the essential role of the rule of law in maintaining a democratic society where constitutional principles are upheld, and individual rights and freedoms are protected.

³ Rule of Law in the constitution : A complete Guide, LLOYD Law College. December 6th 2023, <https://www.lloydlawcollege.edu.in/blog/rule-of-law-in-constitution.html#:~:text=The%20%22rule%20of%20law%22%20is,of%20democracy%20and%20good%20governance.>