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**AN ANALYSIS OF THE WORKING OF THE DOCTRINE OF THE RULE
OF LAW**- Yatri Trivedi¹**ABSTRACT**

The fundamental framework of the Indian Constitution is thought to be the "Rule of Law." The study examines the extent to which Joseph Raz's "Rule of Law" concepts are implemented in India. The Court further stated that the concept of the dual state, in which government action is conducted in a privileged capacity with protection from judicial oversight, is rejected by the doctrine of rule of law. The following section discusses certain exclusions to the rule of law notion.

RELATION BETWEEN RULE OF LAW AND ADMINISTRATIVE LAW:

Administrative law is incompatible with the presence of the Rule of Law if it implies broad discretionary authority on the part of the government. Rule of Law refers to the equal submission of all social groups to the common law of the state as applied by common law courts.

The fundamental tenet of administrative law is the rule of law. In actuality, one of the concepts that operated as a barrier to the formation of Administrative Law principles was this one. Ironically, the rule of law is now a significant component of contemporary administrative law. Administrative law places a lot of importance on the phrase "Rule of law." It shields the populace against the arbitrary actions of administrative officials. The phrase "rule of law" simply refers to the situation in a nation where, for the most part, the law governs. Law can be interpreted to mean primarily a rule or principle that controls how people behave in public and is upheld and used by the government to administer justice.

Key words: administrative, rule of law, fundamental.

¹ Student at Marwadi University

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INTRODUCTION

A subset of public law known as administrative law is focused on the practises guidelines and laws of various governmental organisations. Administrative law focuses primarily on the decision-making powers of such administrative entities as they implement laws passed by state and federal legislatures. The administration of benefits to the public and the control of the Social Security Administration are examples of administrative law in action. Consider the following administrative law term as you investigate this idea.

1.1) RELATION BETWEEN ADMINISTRATIVE AND RULE OF LAW:

The fundamental tenet of administrative law is the rule of law. In actuality, one of the concepts that operated as a barrier to the formation of Administrative Law principles was this one. Ironically, the rule of law is now a significant component of contemporary administrative law. While the rule of law remains one of the fundamental concepts governing common law nations and nations that draw their common law from those nations, modern laws have disallowed several of the key components of the rule of law as envisioned by Dicey at the beginning of the 19th century.

"Absolute supremacy or preponderance of regular law as opposed to the impact of arbitrary power and eliminates the existence of prerogatives or even vast discretionary power on the side of government," according to Dicey, is the definition of the rule of law. According to Dicey, where there is discretion, there is room for arbitrariness, which causes citizens' legal insecurity. The rule of law was first introduced in modern times by British jurist and philosopher Albert Dicey. He provided the following three rule of law postulates:

1. Everyone is treated equally by the law.
2. must be supported by legal authority.
3. In a civilised society, the primacy of the court is debatable Courts are the ultimate authority.

1.2) MEANING OF RULE OF LAW:

La principal de legality, which translates to "a government based on the principles of law," is the source of the English phrase "the rule of law." The concept of the rule of law is credited to Edward Coke. The King, he reasoned, must be subject to both God and the Law. 'Rule of Law'

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was the subject of three key arguments made by Edward Coke. First and foremost, the rule of law is necessary to ensure that the monarch does not have an autocratic grip on power; secondly, it assures that the Government's authority is not arbitrary; and finally, it is necessary for the security of the People and their property Rights.

Our contemporary democratic society is built on the idea of the "Rule of Law." Despite having no definition in the Indian Constitution, the Indian Judiciary frequently uses this term in its rulings. The phrase "Rule of Law" refers to a philosophy of "state political morality" that upholds a "proper balance" between the 'powers' and 'rights' between people and between people and the state to make it free and civil society. Law, which is built on freedom, fairness, equality, and accountability, creates the "right balance." Rule of Law achieves this balance between societal and individual requirements.

The struggle for recognition of one's inalienable rights has lasted for millennia, and the rule of law is the product of that struggle. The Greek philosophers Aristotle and Plato addressed the idea in the year 350 BC, making it a very old and antiquated idea. The idea altered societal perceptions as well as how people viewed and interpreted the rule of law.

several authors. Rule of law, according to Plato, is "supreme in nature, and no one is above the law." Law ought to be the State's ultimate sovereign, according to Aristotle. The customary law of Germany suggested that in the Middle Ages, the independent basis of the rule of law was the idea that the King was always subject to the law.

1.3) CHARACTERISTIC OF RULE OF LAW:

1. The Rule of Law is protected when the authorities are prohibited from acting irrationally while exercising their authority.
2. According to the rule of law premise, no one can be punished or made to suffer unless and until committed the illegal act.
3. The rule of law holds that everyone is equal before the law, which means that a group of people cannot be the basis for legislation.
4. The rule of law is a fundamental tenet of most democracies since it is applicable everywhere and because it has been an integral component of the majority of legal systems worldwide.

1.4) CONCEPTION OF RULE OF LAW:

According to Dicey's in his work "The Law of the Constitution," British jurist and constitutional

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theorist Albert Venn, Dicey created the idea of the rule of law (1885). One should be aware of the distinction between administrative law and the Rule of Law, he claims. He claims that the Rule of Law applies equally to everyone, whether he is the Prime Minister or a regular person working in an office as a bank clerk. Therefore, everyone should be subject to the same laws, and there should be no discrimination. be carried out by the law, which is always superior.

A.V Dicey propounded three postulates of the Rule of Law,

1. Supremacy of Law
2. Equality before the law
3. Predominance of a legal spirit

1. Law's supremacy

According to AV Dicey's first postulate, the absence of arbitrary behaviour or broad discretionary authority is what is meant by the rule of law. In other words, the law ought to apply to every man. Law is without a doubt disproportionate and overwhelming rather than having an impact on the influence of arbitrary and discretionary power. A person can only be punished by the law.

2. Equality before the law

According to the second postulate of the rule of law, all classes must be equally subject to the common law of the land as it is applied by common law courts. Therefore, it indicates that neither a government official nor anyone else receives any unique rights. It claims that the cases involving the government and its employees do not require the use of extraordinary tribunals or special courts.

3. Majority of Legal Spirit

The right to personal liberty, freedom from arbitrary detention, and other rights are products of English judicial decisions, according to the rule of law's third premise. And the English Constitution is the outcome of the common law of the country, and judicial rulings define individual rights. Courts are the defenders of liberty.

1.5) Fundamentals of the Rule of Law:

There are several fundamental legal principles.

1. Law is ultimate, above all things and people. No one is above the law.
2. Everything must be carried out by the law, not our whims or desires.
3. Unless there has been a clear violation of the law, no one should be made to suffer.

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4. Rule of law is based on the absence of arbitrary power
5. Equal protection under the law and equality before the law.
6. Discretionary powers must be used within the legal, enforceable parameters.
7. Sufficient protection from executive authority misuse.
8. An impartial and independent judiciary.
9. A Just and Fair Process.
10. Quick Trial.

LANDMARK CASE

1) **Kesavananda Bharati v. State of Kerala (1973)²:**

The case of kesavananda Bharti vs the state of Kerela is noteworthy and the most well-known in our nation's history since it resulted in the formation of the largest 13-judge bench in Indian history to hear the case. The ruling, in this case, was rendered to safeguard India's democracy.

ISSUE:

Let's learn about the difficulties raised after studying the case's history. The Kesavananda Bharati Case raised these two main concerns:

- Can fundamental rights be changed by the parliament?
- How much authority does the legislature have to alter the fundamental rights?

JUDGEMENT:

The decision in Kesavananda Bharati & Others v. the State of Kerala is required because, in this instance, the court showed innovation by introducing the Basic Structure Doctrine, which granted the parliament authority and stated that it could not interfere with the Constitution's fundamental principles. The Kesavananda Bharati case has also helped to protect India's democracy.

2) **A.D.M. JABALPUR V/S SHIVKANT SHUKLA³:**

In this case, the question was whether or not a writ petition could be sent to the High Court under Article 226 of the Constitution to uphold fundamental rights while an emergency was declared.

²Kesavananda-Bharati-Case-UPSC.pdf (byjus.com)

³ADM Jabalpur v Shivkant Shukla (1976) - Important SC Judgements for UPSC (byjus.com)

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JUDGEMENT:

Frequently referred to as the Habeas Corpus Case, it is one of the major rules of law instances. The court, in this case, asked whether India has a separate rule of law. The Indian Constitution's Article 21. Consequently, Justice A.N. Ray, Justice Hans, and There is no rule, according to Justice Raj Khanna, Justice M. Hameedullah, Justice Y.V. Chandrachud, and Justice P.N. Bhagwati. There is nothing, and never will be, a separate rule of law from Article 21.

CONCLUSION

Most people think of the rule of law as a contemporary idea that democracy has given to its citizens to ensure their equality. However, it is crucial to realise that this requirement for a democratic country is key to the notion of good governance in the country, which in some way or another has not yet been fully realised. So that they may be fixed and social welfare can be promoted without any limitations, we must concentrate on the flaws and gaps that exist in society. Having stated that, we must acknowledge that other Status institutions must also share some of the blame for the weak state of the rule of law in society; Other actors like the media, civil society, and even common individuals' activities cannot stop them from carrying out their respective obligations. Therefore, it is equally necessary for all social actors to coordinate their efforts and work together to ensure that the concept of the Rule of Law is upheld without any kind of prejudice.