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**COMPARATIVE STUDIES BETWEEN THE CONCEPT OF EQUALITY
BETWEEN INDIA AND UNITED KINGDOM**- Shubhi Singla¹**INTRODUCTION**

As the name suggests, the right to equality means all persons should be treated equally irrespective of their birth, caste, nation, religion, etc. There shouldn't be any discrimination or partiality in all matters, including public Employment, Educational Institutions, Legislative Provisions, etc. It also talks about the abolishment of titles to remove all the inequality.

The government shall treat every person equally without favoritism to any group. It means all persons are equal in the eyes of the law, irrespective of a person's financial or social status. The right to equality is the foundation of our democracy and the foundation of the "Rule of Law."

It means that no one is above the law, and there should not be any distinction between a person and the president of our country. All the persons shall be presumed to be standing on an equal footing.

The "Rule of Law" idea denotes the supremacy of law. It is not a new concept. Rule of Law is deduced from the French Phrase "La Principe de Legality," which is 'Principal of lawfulness and legality.' The rule of law is a pillar of a regime that claims that the law is paramount above all else and that all individuals are protected by law. Around 350 B.C., Plato and Aristotle said that "law guides the governments and it must function under the direction of law. "In the 13th century, Bracton, acting judge in the era of Herry III, talked about the concept of law without using the expression rule of law. According to him, whatever the king says is law, and it is supreme." "Edward Coke said that the king works under the law and God." Different legal scholars label the expression of the rule of law in various terms. According to Mediaevalists- it is the "Law of God." According to Hobbes, Locke, and

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Rousseau, “Social Law” and “Natural Law” are now called the rule of law². It is a complex concept and not capable of any precise definition. It includes justice, fairness, equity, harmonization of conflicting interests, and trying to locate the law's essence.

Key Words

Equality, India, United Kingdom, Comparative Study, Constitution, Legislation, Judicial Decision, Affirmative Action, Gender Equality, Social Disparities, Economic Disparities, Diversity.

Meaning of Right to Equality

Equality originated from the Latin word *aequalis*, which means even or equal. In simple terms, equality means full equality of treatment and reward for all. The constitution of India guarantees six fundamental rights to its citizens. The term essential means that they are inalienable and can't be removed from the Legislative actions. They are the necessities that ensure a life of minimum standard to its citizens.

One such Fundamental properis the “Right to Equality”. It discusses equality before the law and non-discrimination based on race, religion, caste, sex, birthplace, etc. In simple terms, it involves the right to live with equal opportunities.

These rights state that no person is entitled to special treatment before the law. Everyone, from our prime minister to ordinary citizens, must follow and respect the same rules.

The right to equality is further clarified in our country's constitution as it has some implications. It is the utmost responsibility of the government to not discriminate against any citizen on the grounds of religion, race, caste, sex, place of birth, etc.

Types of Equality

Our constitution offers different kinds of equality to its citizens. Some of them are discussed below-

Natural Equality:

It states that though human beings differ from each other in their physical features, psychological traits, mental abilities, and capacities, they still are treated equally. God had made everyone equal, and we shouldn't discriminate between them.

²Kudrat, Rule of Law in India, Academic (2015), <https://www.lawctopus.com/academic/rule-of-law-in-india-2/>
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Social Equality:

It refers to the equality of opportunity for the development of all classes of people without any discrimination. Everyone shall be awarded civil rights, freedom of speech, property rights, and access to goods and services to live a healthy life. Social equality also stands for gender equality wherein women shall be granted equal rights with men. They should be treated equally in public employment, and their payroll shall be kept equal to men.

Civil Equality:

It can be understood as granting equal rights and social freedoms to all people belonging to different social groups without discrimination. All people are equal before the law, and civil liberty focuses on enjoying rights and freedom by all sections of society. Our society shall be free from discrimination between superior and inferior, the rich and the poor, caste and creed, color, race, etc. The rule of law shall govern in our society.

Political Equality:

This equality talks about equal opportunities for participation in all political processes and activities. It also involves the concept of equal political rights for the person standing in a uniform category. The idea of the Universal adult franchise shall be followed. It means that all persons above 18 shall have the right to vote in the formation of the government. Further, the people should have their voice in the formation of government and a right to be involved in the functioning of the government. This equality ensures the enjoyment of similar political rights to all citizens.

Economic Equality:

The term "Economic Equality" should not be understood as an equal reward or wages for everyone. It emphasizes fair and equitable opportunities for all people to work and earn their livelihood to the best of their abilities. All people's basic or primary needs should be fulfilled instead of satisfying the unique needs of a few. Though the gulf between rich and poor can't be eliminated, efforts should be made to minimize it to a large extent. The government shall ensure equitable distribution of wealth and resources to its citizens.

Legal Equality:

It can be defined as equality before the law, equal subjection of all before the same legal code. It also highlights the equal opportunity for all to secure legal protection of their rights

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and freedom. There should be a rule of law, and laws must be equally binding. In every society, equality must be ensured in all these forms.

Rule of Law in the United Kingdom

The idea of the rule of law has emerged and developed through a prolonged process. Even in UNITED KINGDOM, it has occurred to obstruct unlimited and unrestricted power. In today's civilized society, the rule of law needs a long struggle between the king and the people and the battle for superiority between parliament and the king³.

Principles of Rule of Law was developed in the year 1215 under the rule of King John. As when "King John has accepted the excellent document known as Magna Carta."⁴ This is one of the most significant written documents that made the king's power; for the first time, the king was forced to follow the law. It was witnessed that even the crown's power was not absolute, and a king was not above the law and must follow it. It reaffirms the supremacy of law.

Dicey's thesis about the Rule of Law:

"A.V. Dicey, in his work The Law of Constitution, observes and outlines three cardinal principles that emerge from the rule of law about the "UNITED KINGDOM."⁵

1. Supremacy of Law- There should be no absolute discretionary power to be enjoyed by Government Officials. If discretionary power is given, it would lead to arbitrariness, and restrictions can be imposed on the arbitrary power of the authorities according to the legal procedure if necessary for the proper functioning of the law.
2. Equality before Law- No discretionary Power should be given to Government Officials, and justice must be performed according to the established principles. If the discretionary power is given, then it would lead to arbitrariness.
3. Predominance of Legal Spirit- The Essence of the supreme law must flourish a true meaning and wisdom of the legal norms is and fair, and where there is an infringement of the legal principle, the judiciary is the essential organ to regulate and guarantee rights to citizens.

³VarshaRajora, Comparative Analysis of Rule of Law in UNITED KINGDOM & India (2010), <https://papers.ssrn.com/abstract=1533265>

⁴ Varsha Rajora, Comparative Analysis of Rule of Law in UNITED KINGDOM & India, SSRN Electronic Journal (2010).

⁵ Comparative Analysis of Rule of Law in India and UNITED KINGDOM, [https://www.legalservice.india.com/article/Rule-of-Law-in-India-&-United Kingdom.html](https://www.legalservice.india.com/article/Rule-of-Law-in-India-&-United-Kingdom.html)

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In UNITED KINGDOM, the rule of law serves uniquely: “courts should translate that law in such a way that they offer an appropriate standard to the rule of law. This is the manner through which the standard of law capacities; however, assessments switch on what the idea known as the rule of law implies”.⁶

Lord Neuberger, President of the UNITED KINGDOM Supreme Court, commented on the Rule of Law in his speech. According to him, the expression denotes the relationship between authority and people or between citizen and citizen. This relationship must be governed by law. He further mentions that the rule of law requires that:

Law Must be accessible.

The law must implement an order efficiently.

Regulate the relationship in a just and fair manner.

Applicability of the Standard of Rule of Law in the Indian Constitution

The phenomenon of standard legislation forms a basis for the contemporary democratic culture. For the proper administration of polity, there must be a law as it is helpful for better administration and effective implementation of policies. One of the chief functions of constructing law is to avoid conflicts, maintain peace and public order in the community, and formulate harmony surrounding the welfare of individuals. The Rule of Law plays a vital role in achieving all these objectives.

India has acknowledged the joint law equity conveyance agreement that attains its sources in British Jurisprudence, whose instruments are the rule of law and justice. However, as Dicey mentioned, Englishmen do not require regulatory legislation or any variety of compound law to maintain the legislature in mind, the rule of law, and the phenomenon of natural law, but there is official and written law to ensure consistency.

“As India guarantees to citizens of India through the preamble that the Indian to be a Sovereign, Socialist, Secular, Democratic, Republic and to secure all its citizens: Justice, Social, Economic and Political; Liberty of thought, expression, belief faith and worship;

⁶Indian Constitution, Preamble, https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf
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Equality of status and opportunity; and to promote among them all; Fraternity assuring the dignity of the individual and the unity and integrity of the Nation.”⁷

Indian regimes state that the polity of its structure will be operated by democratic principles, which implies that it will be a sovereign power in the land, and different bodies such as the legislature, executive, and judiciary shall obtain autonomy from the divine law of the land. Any law made by the making authority must be in uniformity with Article 13 as mentioned in Part III of the constitution; otherwise, that will be declared void as that law infringes the basic norms of the constitution. Article 13 states, “Any law which is inconsistent with Part III whether that law is pre-constitutional law and post-constitutional law is void up to the level of inconsistency.”

Landmark judgments are as follows:

Indira Gandhi v. Raj Narain⁸

In this case, by the 39th amendment of 1975, Article 329A was inserted, which refers to the exemption from review by the judiciary of the referendum of the Prime Ministers. Apex Court ruled that Article 329A was unconstitutional because it removed the fundamental constitutional feature.

Dalbir Singh v. State of Punjab⁹

In this case, the court ruled that if any law created after the beginning of the Constitution violates the fundamental right that constitutes the basic framework of the Constitution, it would be declared unconstitutional up to the point of inconsistency.

India is a modern nation-state. The constitution confers the spirit of good governance and the welfare of the people, so it guarantees fundamental rights to Indian citizens so that they can significantly contribute to lifting their lives in harmony so long as they comply with statutes. These essential civil and political freedoms start taking priority over the ordinary law of the land.

In resemblance, Article 21 specially enumerates that “No person shall be deprived of his life or personal liberty except according to the procedure established by law.” So, Article 21 imparts a

⁷ Indian Constitution, Article 13, p.6, coi_part_full.pdf, https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

⁸ (1975) 2 SCC 159

⁹ The Constitution (39th Amendment) Act, 1975 | National Portal of India, <https://www.india.gov.in/my-government/constitution-india/amendments/constitution-india-thirty-nine-amendment-act-1975>

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further examination of unjustified actions. Correspondingly, Article 14 enumerates Dicey's concept of Equality before the law as the above article mentions that "Equality before law states that there shall not be any refusal to any person equality before the law or the equal protection of the laws within the territory of India prohibition of discrimination on the grounds of religion race cast sex a place of birth."¹⁰

Succeeding articles also mentioned fundamental liberties such as freedom of religion, abolition of untouchability, and freedom against exploitation. The Constitution further protects against the infringement of fundamental rights as one of the principles of the law is to harmonize between conflicting interests, safeguard people's interests, and guarantee basic human freedom against misuse or arbitrary use of power so that a balance can be created in society.

Conclusion

1) Dicey never acknowledged the administrative law, so he pointed out that the people do not need any public law and do not require it as a form of composed law. According to him, in the UNITED KINGDOM, the basic idea on which the sanctity of law depends would be sufficient to curtail the arbitrary use of power; in contrast, in India, there are not only Natural law phenomena but also formal and written law that acknowledges providing justice to the people and restricts the arbitrary use of power.

2) As the judiciary is the principal organ to protect the vision and spirit of justice, equity, and good conscience, which is part and parcel of the rule of law in the United Kingdom, the Judiciary protects the citizens from arbitrary power by going through Precedents only whereas in India, The Judiciary provides Justice by going through Precedents as well as written law of the nation. For example, the Supreme law of India is the Constitution of India.

3) As the Rule of Law talks about equality before the law, this concept is strictly followed in the United Kingdom. In "Wilkes vs Wood," it was concluded that an action for harm suffered for trespass is maintained even though the minister takes the motion of trespass. In India, equality before the law and equal protection of the law both apply, as everyone cannot be put on a similar footing, as there is diversity in India where specific protection is given to weaker sections.

¹⁰ Id. p.6

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4) In the United Kingdom, the Legislature is the sovereign authority, so it becomes difficult to implement the spirit of the rule of law as sometimes the law may lead to biases. In contrast, in India, sovereignty lies in the Constitution, and every law emerges from it, so there is less chance of bias.

5) The rule of law does not cover the broad unrestricted authority of the government. In the modern period, the government, on most occasions, uses its discretionary power, granted by parliament, to perform its function and provide security and a feeling of protection to the people. According to “Ivor Jennings, the arbitrary power might be increased during national emergencies. This was examined in the year 1914 when the provision of the domain of the regulation gave the English government extreme powers. In India, also during emergency times, the President can suspend Fundamental Rights except Article 20 and Article 21.”

