

**Course- B.A LL.B sem 6**  
**Administrative law**  
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# RULE OF LAW

“In questions of power, then, let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution”

# Definition

- ❑ The term Rule of Law is derived from the French phrase '*la principe de legalite*' (the principle of legality) which refers to a government based on principles of law and not of men.
- ❑ Rule of Law is a legal principle that law should govern a nation, and not arbitrary decisions by individual government officials.
- ❑ In simple words, 'men are ruled by law and not by men'
- ❑ It primarily refers to the influence and authority of law within society, particularly as a constrain upon behaviour, including behaviour of government officials.

# Dicey's Concept

In his book 'Law & The Constitution' published in the year 1885, Dicey attributed 3 meaning of Rule of Law:

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

# Factors of Rule Of Law

Rule of Law is a system where the following principles are upheld:

1. Constraints on Government Powers
2. Absence of Corruption
3. Order and Security
4. Fundamental Rights
5. Open Government
6. Regulatory Enforcement
7. Civil & Criminal Justice



# Comparing other countries

- In USA, rights are expressly mentioned and hence “rule of law” exists
- In UK, judge made law, evolved and the principles of “rule of law” are “recognized” by the courts.
- In India, Rule of Law is not used in the Indian Constitution anywhere. The term is though used frequently by the Indian courts in their judgments. For instance, an online search of the Supreme Court's reportable judgments delivered between 1 January 1950 and 1 January 2010 resulted in 1,299 hits of the term 'rule of law'.

# Proof of existence of Rule of Law in India

## Proof:

- ④ Separation of powers
- ④ FRs – especially Art. 21
- ④ Judicial Independence
- ④ Judicial Review
- ④ Equality Guarantee & Protection of Human Rights

# Cases

- | In **Indira Gandhi v. Raj Narain**(AIR 1975 SC 2299), Article 329-A was inserted in the Constitution under 39th amendment, which provided certain immunities to the election of office of Prime Minister from judicial review. The Supreme Court declared Article 329-A as invalid since it abridges the basic structure of the Constitution.
- | **Bachan Singh v. Union of India** (AIR 1982 SC 1325)
  - Bhagwati J said "rule of law excludes arbitrariness and unreasonableness"
- | **Kesavananda Bharati v. State of Kerala** (AIR 1973 SC 1461)
  - Scope of Rule of Law has been expanded in judiciary in this landmark judgment which held that Rule of Law is a part of basic structure on the Indian Constitution and, therefore, it cannot be abrogated or destroyed even by Parliament.



# Conclusion

- On a brief overview of the constitutional provisions and judicial decisions, it can be safely concluded that the Indian Constitution enshrines the rule of law as a fundamental governance principle, though the term is not mentioned expressly in the text of the Constitution. **It is the present day modernized name for natural law.** In jurisprudence, it was known as 'jus naturale' by the Romans, 'law of god' by the medievalists. Coming ahead in time, Rousseau, Hobbes and Locke called it 'social contract' or 'natural law'. *The modern man refers to it as 'the rule of law'*

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Thank you !!!

