

Rule of Law

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The origins of the Rule of Law theory can be traced back to the Ancient Romans during the formation of the first republic; it has since been championed by several medieval thinkers in Europe such as Hobbes, Locke and Rousseau through the social contract theory. Indian philosophers such as Chanakya have also espoused the rule of law theory in their own way, by maintain that the King should be governed by the word of law. The concept of Rule of Law is that the state is governed, not by the ruler or the nominated representatives of the people but by the law.

Rule of law was developed by a British jurist Albert Venn Dicey in his book called “The Law of the Constitution” 1885. The term Rule of law is derived from the French phrase ‘la principle de legality’ which means the principle of legality.

Dicey’s rule of law consists of following three meanings:

1. Equality before Law

It means that everyone is equal before the law. Laws are equal for all or all the classes are equally subjected to the law of the land. Law doesn’t make any distinction based on the caste, creed, sex or class of the person. Everyone is governed by the same law and the punishments for the violation of the laws will attract the same punishment for everyone be it a rich man or a poor. Thus, all people are subject to the same law and no one is provided with any special privilege. Dicey says this emphasises the impartiality of law. Even the Government Officials are under a duty to obey the same law and there can be no other special courts for dealing specifically with their matters.

2. Supremacy of Law

Rule of law according to Dicey means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power or wide discretionary power. It means the exclusion of the existence of arbitrariness on part of the government. The supremacy of law means that a man can be punished only for the distinct breach of law established in the ordinary legal manner before the ordinary courts of the land. Thus, it is the law of the land which is supreme and not an individual. Thus, no man is above law, the law is paramount and everyone must follow the law of the land and any deviance would attract severe punishments or penalties. An alleged offence however is required to be proved before the ordinary courts in accordance with the legal procedure.

3. Constitutional Law stems from ordinary law:

It is generally presumed that the written constitution is the source of legal liberties of citizens. The legal spirit is seen in its customs, conventions and judicial decisions. Thus, Dicey emphasised the role of the Courts as guarantors of liberty and suggested that it would be secured more adequately if they were enforceable through the Courts of law than by mere declaration of those rights in a document, as in the latter case, they can be ignored, curtailed or trampled upon.

Merits of the Rule of Law

1. It puts legal barriers to governmental arbitrariness.
2. It provides safe guards for the protection of individuals.
3. Rules of law are rooted in conventions and customs of the country of UK.
4. It gives freedom to the judiciary to control the executive who exceeds their jurisdiction