

Rule of Law - UPSC Notes

One of the very basic principles of the English Constitution is the concept of Rule of Law. The concept is well established in all legal systems in the world which include the constitutions of the United States of America and India. In this article, you can read all about the concept of rule of law, its meaning, origins, relation to the Indian Constitution and exceptions to the rule of law for the [UPSC exam](#) polity and governance segment.

Chief Justice Edward Coke of England, who held office during the reign of King James I, is considered to be the originator of this doctrine. Justice Coke while emphasizing the supremacy of law against the executive stated that the King should be under God and Law. The theory of Justice Coke was developed by Dicey in his classic work "The Law and the Constitution" which was published in the year 1885.

Rule of Law - Meaning & Scope

Dicey in his work stated that Rule of Law is fundamental to the English legal system and gives the following three meanings to the doctrine:

1. *Supremacy of Law*

- a. 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.
- b. It means the exclusion of the existence of arbitrariness on part of the government.
- c. This in essence means that no man can be arrested, punished or be lawfully made to suffer in body or in goods except by the due process of law and for breach of a law established in the ordinary legal manner before the ordinary courts of the land.

2. *Equality before Law*

- a. While explaining this aspect of the doctrine, Dicey stated that there must be equality before the law or equal subjection of all classes to the ordinary law of the land administered by the ordinary law courts.
- b. Dicey believed that the exemption of civil servants from the jurisdiction of the ordinary courts of law and providing them with the special tribunals was the negation of equality.
- c. He stated that any encroachments on the jurisdiction of the courts and any restriction on the subject's unimpeded access to them are bound to jeopardise his rights.

3. *Judge-made Constitution*

- a. Dicey observed that in many countries rights such as the right to personal liberty, freedom from arrest, freedom to hold public meetings, etc. are guaranteed by a written Constitution; in England, it is not so.
- b. In England, those rights are the result of judicial decisions in concrete cases that have actually arisen between the parties.
- c. Thus he emphasized the role of the courts of law as guarantors of liberty and suggested that the rights would be secured more adequately if they were enforceable in the courts of law than by mere declaration of those rights in a document.

Rule of Law and Indian Constitution

The Preamble of the Constitution itself prescribes the ideas of Justice, Liberty and Equality. These concepts are further enunciated in Part III of the Constitution and are made enforceable. All three branches of the government are subordinate i.e. the Judiciary, Legislature and the Executive are not only subordinate to the Constitution but are bound to act according to the provisions of the Constitution. The doctrine of [judicial review](#) is embodied in the Constitution and the subjects can approach the High Court and the Supreme Court

for the enforcement of fundamental rights. If the Executive or the government abuses the power vested in it or if the action is *mala fide*, the same can be quashed by the ordinary courts of law.

The Supreme Court of India in *Chief Settlement Commissioner Punjab v. Om Prakash* observed that in our constitutional system, the central and most characteristic feature is the concept of the rule of law which means, in the present context, the authority of the law courts to test all administrative action by the standard of legality. The Court added that the doctrine of rule of law rejects the conception of the dual state in which government action is placed in a privileged position of immunity from control by law.

Exceptions to Rule of Law

Some exceptions to the concept of the rule of law are discussed below.

- 'Equality of Law' does not mean that the powers of private citizens are the same as the powers of public officials. e.g. a police officer has the power to arrest which the private citizen does not have.
- The rule of law does not prevent certain classes of persons from being subject to special rules, for example, the armed forces are governed by military laws.
- Ministers and other executive bodies are given wide discretionary powers by the statute.
- Certain members of the society are governed by special rules in their professions like lawyers, doctors and nurses.

Conclusion

The founding fathers of India accomplished what the rest of the world thought impossible - establish a country that would follow the letter of the law and implement the Rule of Law. In all matters such as the protection of the rights of the people, equal treatment before the law, protection against excessive arbitrariness, the Constitution of India has provided enough mechanisms to ensure that the Rule of Law is followed. Through its decisions, the Courts have strived to reinforce these mechanisms and ensure smooth justice delivery to all citizens. Problems such as outdated legislation and overcrowded courts are but small hindrances and bodies such as the [Law Commission of India](#) work towards ironing out these problems with the aim of achieving a system where there are no barriers to the smooth operation of the Rule of Law.

