



FACULTY OF JURIDICAL SCIENCES

Course : BALLB , 3rd Semester

Subject : Administrative Law

Subject code : BAL306

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ADMINISTRATIVE LAW

UNIT I

- Definition, Nature and Scope of Administrative Law, Conceptual Objections to the growth of administrative Law
- Rule of Law, Separation of Powers
- Administrative discretion: Meaning, Need, and Judicial Control

UNIT II:

- Legislative Power of Administration: Necessity, Merits and Demerits,
- Constitutionality of Delegated Legislation; Legislative and Judicial Control of delegated
- Legislation

UNIT III:

- Principles of Natural Justice and their Exceptions Rule against Bias, Concept of Fair hearing
- Judicial review of administrative action through writs;
- Judicial control through suits for damages, injunction and declaration
- Administrative Tribunals: Need and reasons for their growth, characteristics, jurisdiction and procedure of administrative Tribunals.

UNIT IV:

- Liability of the administration: Contractual liability, tortious liability. Public Undertakings, their necessity and Liabilities, governmental Control, Parliament Control, Judicial Control
- Ombudsman: Lokpal and Lokayukta
- Right to information ACT, 2005 (S.1-S.20)
- Government Privilege to withhold evidence in public interest

Books

1. Wade, Administrative Law (VII Ed.) Indian Print, Universal
2. M.P.Jain, Principles of Administrative Law, Universal Delhi
3. I. P. Massey: Administrative law

LECTURE 3



RULE OF LAW

Rule of Law

The bedrock of our democracy is the rule of law and that means we have to have an independent judiciary, judges who can make decisions independent of the political winds that are blowing. □-

Caroline

Kennedy

In order to understand the concept of rule of law, it is to be comprehended that the state is governed not by the ruler or the nominated representatives of the people but by the law. The term "Rule of Law"™ is nowhere defined in the Indian Constitution but this term is often used by the Indian judiciary in their judgments. Rule of law has been declared by the Supreme Court as one of the basic features of the Constitution so it cannot be amended even by the constitutional amendment. Rule of law is seen as an integral part of good governance.¹

As per rule of law, it is required that the people should be governed by the accepted rules rather than the decisions that are arbitrarily taken by the rulers. For this, it is essential to keep in mind that the rules that are made should be general and abstract, known and certain and it should apply equally to all individuals. Legal limitation on government is the essential attribute of constitutionalism. Rulers are not above law under the concept of constitutionalism, government power is divided with laws enacted by one body and administered by another and for that an independent judiciary exists to ensure laws.²

¹ http://ijlljs.in/wp-content/uploads/2017/08/Rule_of_Law.pdf.

² *ibid.*

Concept of Rule of Law

The originator of the concept of rule of law was **Sir Edward Coke** the Chief Justice in **James I Reign**.

The concept of rule of law is of old origin. Greek philosophers such as Plato and Aristotle discussed the concept of rule of law around 350 BC. Plato wrote Where the law is subject to some other authority and has none of its own, the collapse of the state, in my view, is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise and men enjoy all the blessings that the gods shower on a state. Aristotle wrote law should govern and those who are in power should be servant of the laws.

The derivation of the phrase Rule of Law is from the French phrase la principe de legalite which implies principle of legality. By this phrase it refers to a government based on principles of law and not of men. One of the basic principles of Constitution is rule of law and this concept is up to standard in both India and America Constitution.

The doctrine of rule of law is the entire basis of Administrative law. As discussed by Aristotle, the concept of rule of law is grounded in the ideas of justice, fairness and inclusiveness. Today, an intricate chain of fundamental ideas is incorporated in rule of law which further encompasses equality before law, equal treatment before the law for government, independence of judiciary, consistency, transparency and accountability in administrative law.

Meaning of Rule of Law

To simply understand the meaning of rule of law, it means that no man is above law and also that every person is subject to the jurisdiction of ordinary courts of law irrespective of their position and rank.

The term rule of law is originated from England and India has taken this concept. The concept of rule of law further requires that no person should be subjected to harsh or arbitrary treatment. The word 'law' in rule of law means that whether he is a man or a society, he must not be governed by a man or ruler but by law. In other words, as per Article 13 of the Indian Constitution rule of law means law of land.

According to **Blacks Law Dictionary**: Rule of Law means legal principles of day to day application, approved by the governing bodies or authorities and expressed in the form of logical proposition.

According to **Oxford Advance Learner's Dictionary**: Rule of Law means the situation in which all the citizens as well as the state are ruled by the law.

MCQs

1. What are the basic principles of administrative law?
 - a) Judicial Review of Administrative Action
 - b) Prevention of mis-use of power
 - c) Provison for suitable remedies
 - d) All of the above
2. “The goal of administrative law is to ensure that the individual and the state are placed on a plane of equality before the Bar of Justice”
 - a) Bernard Schwartz
 - b) Jennings
 - c) Dicey
 - d) Wade
3. The originator of the concept of rule of law was
 - a) Dicey
 - b) Justice Coke
 - c) Justice Holmes
 - d) Jennings
4. The concept of rule of law has
 - a) Greek Origins
 - b) French Origins
 - c) American Origins
 - d) English Origins
5. Concept of rule of law is grounded in the ideas of
 - a) Justice
 - b) Fairness
 - c) Inclusiveness.
 - d) All of the above.