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FROM DICEY TO MANEKA GANDHI **TRANSFORMATION OF RULE OF LAW IN INDIAN** **ADMINISTRATIVE LAW**

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Abstract

This paper traces the development of rule of law in administrative law by analyzing the traditional meaning of rule of law as articulated by A.V. Dicey. Dicey's systematic exposition gained enduring influence by identifying the core pillars of rule of law which are supremacy of law, equality before the law, and the predominance of the legal spirit. Over time, particularly during the twentieth century the doctrine evolved to accommodate the changing demands of society. After which the paper makes progression to demonstrate the connection of rule of law and administrative law by affirming that both are not opposed to each other but on the other hand go parallel with a common objective an orderly government. Various judicial interpretation are been highlighted to reflected the progress, such as A.K. Gopalan v. State of Madras(1950), State of West Bengal v. Anwar Ali Sarkar (1952), etc clarifying the traditional meaning, then moving towards the infamous case of Maneka Gandhi and winding up the journey articulating the indispensable role of rule of law in ensuring justice, transparency and upholding the constitutional values.

Keywords: Rule of Law, India, Evolution, Administrative Law, Dicey, Equality before law, Arbitrary governance, Judicial interpretation.

Research Objective

- Critically analysing the evolutionary shift of administrative law from its formal Diceyan origin to a substantive, rights – oriented constitutional principles.

1. Introduction of Rule of Law

“The Rule of Law means the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, excluding the existence of arbitrariness, prerogative, or

wide discretionary authority on the part of the government.”¹

-A.V. Dicey

1.1. Fundamental Principles Guiding the Rule of Law Pillar

- **Supremacy of Law**, the first postulate of AV Dicey states that Rule of Law refers to the lacking of arbitrariness or wide discretion of power. In other words, every man should be governed by law. Law is indisputably the incomparable and dominating instead of impact to influence of arbitrary power and discretionary power. A person can be punished of the rules of law and by nothing else.
- **Equality before the law**, the second postulate of Rule of Law states that there must be equality before law and equal subjection of all classes to the ordinary law of land administered by ordinary law courts. Thus, it implies absence of special privileges for a government official or any other person. It states that there is no need for extraordinary tribunals or special courts to deal with the cases of Government and its servants.
- **Predominance of Legal Spirit**, the third postulate of Rule of Law states that the Rights such as Right to Personal Liberty, Freedom from arbitrary arrest etc. are the result of judicial decisions in England. And the Constitution of England is the result of ordinary law of the land and the individual rights are established by judicial decisions. The courts are the guarantors of the liberty.²

His theory reflected England’s unwritten constitution and common-law remedies. Indian thought has adopted the core anti-arbitrariness principle, but adapted it to a written, supreme Constitution with justiciable rights. Indian constitutional scholarship notes that Dicey’s emphasis on excluding arbitrary power, equality before law, and judicial control remains relevant, though Indian doctrine now embeds these ideals in a rights-centric, constitutional framework³

However, it also attracted criticism. Critics argued it was overly formalistic, potentially overlooking unjust laws as long as they were properly enacted. It underestimated the growing importance of administrative law and discretionary powers necessary for the functioning of a

¹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (10th ed., Macmillan, 1959).

² Manvir Kaur, *Rule of Law in Administrative Actions – A Critical Legal Analysis* (May 9, 2024), St. Soldier Law College, <https://stsoldierlawcollege.in/Blog-Details/Rule-of-law-in-administrative-actions---a-critical-legal-analysis>

³ M.P. Jain, *Indian Constitutional Law* (8th ed.).

modern state, and its third limb was specific to the uncodified nature of the British constitution.⁴

1.2. The 19th Century: Emerging Challenges

The rule of law was consolidated through written constitutions and legal formalism. However, the focus remained on the supremacy of and equality before courts but ignored the administrative discretion and effect of unjust but legally enacted laws which shows the limitation of this narrow, procedure-oriented understanding, with industrialization and expanding state functions challenges this model, revealing the need for stronger controls over administrative power.

1.3 The 20th Century: Evolution onto The Global Stage

- World War I (1914-1918) – The outbreak of war marked a turning point in the stability of rule of law. To address wartime exigencies, governments heavily relied on emergency legislations providing extraordinary powers that suspended fundamental freedom limiting civil liberties and bypassing ordinary legislative process which concentrated the power in the executive Parliamentary control diminished, while censorship and preventive detention became routine tools of governance. Although legally justified, these actions weakened constitutional guarantees and demonstrated the ease with which the Rule of Law could be compromised during emergencies.
- Collapse and Restoration of the Rule of Law: Nazi Germany and the Nuremberg Trials- Hitler's regime demonstrated how formally enacted statutes can violate basic principles of justice and humanity by becoming a mechanism for persecution and mass violence demonstrating that legal validity alone cannot legitimize state actions under rule of law. The Nuremberg trial responded to this misuse of legality by restoring the principle that no individual, regardless of position is above the law marking a shift from state sovereignty to reinforced supremacy of justice.
- World War II and the Breakdown of the Rule of Law – WWII marked a critical failure of Rule of Law because executive powers expanded, civil liberties were suspended, judicial independence weakened and legality was increasingly shaped by political necessity rather than justice. This demonstrated that adherence to

⁴ Asmita Singh & Dr. Vivek Goyal, *Evolution of Rule of Law*, *Int'l J. L. Mgmt. & Hum.*, Vol. 8, Issue 3 (2025), <https://doi.org/10.1000/IJLMH.119736>

procedure alone is insufficient to preserve the Rule of Law in times of extreme conflict.

- Colonial period in India (the deception of rule of law) - the actions of British governance show the contradiction between supremacy of law and substantive justice which is very much evident in Jallianwala bagh massacre through the use of excessive force against unarmed and innocent civilians . Through Rowlatt act and various other legally enforced law which were against the substantive justice allowed the colonial authorities to govern Indians without any legal accountability undermining the substantive rule of law

2. Emergence Of Administrative Law and Its Linkage with Rule of Law

The emergence of administrative law was the legal response to historical abuse of executive power. World War I and II has normalised the acts of executives which curtailed civil liberties without any just cause .Nazi Germany showed how legally enforced destroy the very foundation of rule of law , while the Nuremberg trial restored the accountability to some extent. Britishers action in India shows how administrative legality was used to justify the wrongful acts.

These experiences shaped modern administrative law which is concerned with:

1. What sort of power does the administration exercise?
2. What are the limits on such power?
3. What are the ways through which the administration is kept within those limits?
4. What are the procedures followed by the administrative authorities?
5. What are the remedies available to a person affected by administration?

Administrative law has emerged as the 'outstanding legal development of 20th century'. As the character of government has changed from *laissez faire* to public service state, which has exceedingly multiplied the government functions resulting in the increase of powers in the executive which was considerably discretionary powers and led to arbitrariness and corruption. Administrative law has been developed parallely with the enforcement of constitution of India to regulate the power of executive, preventing arbitrary actions and centralisation of powers and adhering to Constitutional principle like Rule of Law, natural justice, Fairness, and judicial review.

The linkage between administrative law and the Rule of Law is rooted in the need to control

executive discretion. The Rule of Law demands governance by law rather than by arbitrary authority, while administrative law provides the legal framework to regulate the actions of administrative authorities exercising discretionary power.

Through doctrines such as natural justice and non-arbitrariness, administrative law ensures procedural and substantive fairness. These principles prevent misuse of authority, upholding the Rule of Law and its commitment to justice.

3. A Critical Analysis of Judicial Interpretation on Rule of Law

Development of Rule of Law in India has been characterized by a gradual yet major shift by the Supreme Court of India away from form-based procedure-oriented constitutionalism to substantive or rights-based constitutionalism as evidenced by the doctrine-changing series of precedent-setting judgments first in *A.K. Gopalan v. State of Madras* (1950), *Maneka Gandhi v. Union of India* (1978) and its post-Maneka jurisprudence.

- In **A.K. Gopalan** the Supreme Court took a formal and narrow interpretation of Article 21 that:

'Procedure established by law' means procedure established by law made by the Legislature.⁵

The Court rejected the idea of due process and considered fundamental rights as isolated provisions. This formal conception of the Rule of Law meant that legal procedure alone sufficed even if the law was arbitrary.

- In **R.C. Cooper** the Court made a significant departure from the *Gopalan* doctrine and held that:

*'The validity of State action must be judged by its effect on fundamental rights and not by the object of the law.'*⁶

This weakened the rigidity of formalism and was a significant move towards substantive judicial review which is an essential element of Rule of Law.

- **E.P. Royappa** fundamentally transformed the conception of the Rule of Law in a landmark judgment which linked it with non-arbitrariness. Justice Bhagwati held:

*'Arbitrariness is the very negation of the rule of law.'*⁷

The Court reasoned that Article 14 guarantees equality not only against discrimination

⁵ *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27, 1950 SCR 88.

⁶ *R.C. Cooper v. Union of India*, AIR 1970 SC 564, (1970) 1 SCC 248.

⁷ *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555, (1974) 4 SCC 3.

but also against arbitrary state action. This judgment brought administrative discretion within the ambit of the Rule of Law.

- In **Kesavananda Bharati**, the Supreme Court holding that:
*'Rule of Law forms part of the basic structure of the Constitution and Parliament's power to amend the Constitution is not absolute and limited.'*⁸
This judgment ensured that Rule of Law cannot be compromised even by constitutional amendment.
- The Supreme Court in **Indira Nehru Gandhi** struck down Clause (4) of Article 329A and held that:
*'Rule of law is the basic structure of the Constitution.'*⁹
The judgment reaffirmed that no one including the Prime Minister is above the law which is a cardinal principle of Rule of Law — Equality before Law.
- The case of **ADM Jabalpur v. Shivkant Shukla** stands as a constitutional low point for the Rule of Law and administrative law in India. The majority upheld executive supremacy during Emergency, holding that **"no person has locus standi to move any writ petition under Article 226 for habeas corpus"**¹⁰, effectively insulating administrative detention from judicial review. (This endorsed formal legality over substantive fairness, allowing administrative action to operate without accountability.) In sharp contrast, Justice H.R. Khanna's dissent affirmed substantive Rule of Law, observing that **"the right to life and personal liberty is not a gift of the Constitution."** Critically, the case exposed the fragility of constitutional safeguards when judicial oversight of administrative power is abandoned.
- In **Sunil Batra**, the Court delivered a far-reaching judgment by expanding Article 21 to ensure humane treatment even for prisoners and held that:
*'Fundamental rights do not flee the person as he enters the prison.'*¹¹
The Rule of Law was now significantly **expanded substantively to protect personal liberty within prisons.**
- In **Maneka Gandhi**, the Court fundamentally reformed Rule of Law in India by holding that:
'The procedure prescribed by law must be fair, just and reasonable, and not arbitrary,

⁸ *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461, (1973) 4 SCC 225.

⁹ *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299, (1975) Supp SCC 1.

¹⁰ *ADM, Jabalpur v. Shivkant Shukla*, AIR 1976 SC 1207, (1976) 2 SCC 521.

¹¹ *Sunil Batra v. Delhi Administration*, AIR 1978 SC 1675, (1978) 4 SCC 494.

*fanciful or oppressive.*¹²

The Court also held that:

'Articles 14, 19 and 21 are not mutually exclusive.'

This judgment instituted substantive due process in India and firmly placed fairness and reasonableness at the centre of Rule of Law.

Change came sharply in the Maneka Gandhi case, shifting how rule of law was seen before. Where Dicey focused on order, no bias, equal treatment - strictly by written rules, the discussed judicial pronouncement shows the dynamic and positive nature of Rule of Law by laying the need of fair play and justice in every administrative action by making judicial remedies accessible to all against any administrative encroachment in order to uphold the dignity of man in society.

A Way Forward

Subsequent decisions in jurisprudence following Maneka Gandhi saw an expansion in administrative law. It was established that executive action for affecting life and liberty must meet the standards of fairness, of reasonableness, and of non-arbitrariness established in Articles 14, 19, and 21. Beyond that, judicial entities now review for proportionality and procedural fairness, as demonstrated through Sunil Batra and Puttaswamy. Administrative law must next clarify the proportionality principle's application, ensure transparent decision-making, provide reasoned orders, alongside effective and timely remedies, so efficiency does not override constitutional accountability and Rule of Law.

Conclusion

The Rule of Law in administrative law has therefore gone through an evolution, from legal formalism to constitutionalism. Dicey's classical formulation, stressing legality and non-arbitrariness, was soon recognized as unduly constricted by the realities of social life and the changing role of the state. Indian constitutional jurisprudence has embedded the Rule of Law model in a rights-based framework, through a series of decisions from A.K. Gopalan to Maneka Gandhi, by framing the constitutional vision of the Rule of Law as legality with fairness, reasonableness and non-arbitrariness.

Out of necessity, administrative law took shape - becoming the mechanism to uphold

¹² Maneka Gandhi v. Union of India, AIR 1978 SC 597, (1978) 1 SCC 248.

constitutional duties by curbing arbitrary power via court oversight, fair procedures, and balanced decision-making. Because of this shift, India's understanding of the Rule of Law has evolved into something active: it checks authority, opens processes to scrutiny, while safeguarding personal worth in government actions.

Finally concluding with the words of CAROLINE KENNEDY: *“The bedrock of our democracy is the rule of law and that means to have an independent judiciary, judges who can make decisions independent of the political winds that are blowing”*.¹³

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