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A Critical study on Rule of law in Administrative judicial system

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Abstract :

The Rule of Law includes a variety of principles of a proper and procedural character, addressing the method during which a community is ruled. The formal principles concern the generality, clarity, publicity, stability, and prospectivity of the norms that govern a society. The procedural principles concern the processes by which these norms are unit administered, and also the institutions—like courts And an freelance judiciary that their administration needs. On some accounts, the Rule of Law conjointly includes bound substantive ideals sort of a presumption of liberty and respect for personal property rights. The main aim was to know about the judicial power which went beyond the rule of law and about the misuse of delegated power. Where Ares to spread awareness about the Rule of law in Indian Judiciary and to create impact on people about the Rule of law and to analyse Rule of law efficiency in India. The research has followed Empirical research with a convenient sampling method. The sample size covered by the researcher is 204. The result observed from the analysis of the study is that there are so many cases which use the rule of law and also most of the people are not aware of the Rule of law in the Administrative judicial system.

Key words:

Rule of law, procedural character, administration, judiciary, India.

Introduction :

Evolution of Rule of Law may be a dynamic concept. It can't be taken to mean that it's a hard and fast principle of law from which there can't be any departure. The concept Rule of Law has been discussed by the International Commission of Jurists met in 1959 at New Delhi .Rule of Law is to safeguard and advance the political and civil rights of the individual during a free society.The doctrine of rule of law wasn't known to ancient and medieval India. The king was the fountain head of justice and therefore the protector of all laws. He was considered to be above the law.**Government initiative of rule of law** The Rule of Law is applied far and wide and various features of the Constitution show its acceptance. The Constitution of India contains various features that show the appliance of the Rule of Law within the Indian context a number of them are Preamble, Fundamental Rights, DPSPs, Doctrine of basic Structure, Universal Adult Franchise and review . Part- III and every one Fundamental Rights come under the Rule of Law, which are enforceable by Law and one can approach the supreme court or the Supreme Court under Article 32& 226 on their violation. The proper to Freedom of Speech and Expression forms a part of the elemental Rights and it's also recognized as a person's Right by the Universal Declaration of Human Rights and therefore the International Covenant on Civil and Political Rights. **Factors affecting** the rule of law is that the independence of judiciary clearly becomes a drag if that independence is misused for the privilege of such judicial personnel or admitting of unchallenged interpretation of laws, hence it are often said that such things act in contrary to the principles which the rule of law tries to enshrine.Critics of the strictly formal conception of rule of law argue that an excessive amount of attention to legal process creates significant vices of its own within the sort of exaggerated legal theories and it further tends to neglect the political or real-world dimensions of legal conflicts.**current trends** are India's overall rule of law score decreased by but 1% during this year's Index. At 69th place out of 128 countries and jurisdictions worldwide, India remained within the same position for global rank. the newest encounter of the gangster Vikas Dubey has sparked the talk regarding rule of law and has also raised questions on the exercise of violence by the institutions of the state. Criticisms are coming from across the state especially from the opposition that such an act is against the basics of law, that is, against the rule of law. **The comparison** to Nigeria The events of the previous couple of years in Nigeria reflect an internally induced major attack on the constitution, the deflation of the rule of law and entrenchment of impunity.Nigeria has had a hallow experience with both democracy and therefore the rule of law. While the immediate

post colonial period can generally be described as a period during which democracy and therefore the rule of law generally thrived, the seizure of the country's political space by the military, in effect, bade goodbye to the fine points of elected government and due process of law of law, heralding the years of the locust, characterized by autocracy, arbitrariness, executive recklessness and impunity. **Legal aspects** of rule of law when we look into In "Chief Settlement Commr; punjab v. Om Prakash", it had been discovered by the Supreme Court that, "In our constitutional system, the central and most characteristic feature is that the idea of rule of law which suggests, within the gift context, the authority of law courts to check all body action by the quality of lawfulness. the {executive} or executive action that doesn't meet the quality are put aside if the aggrieved person brings the matter into notice." within the case of "Satwant Singh Sawhney v. D Ramarathanana" the Supreme Court has control that each government action, if it operates to the unfairness of a person, should be supported by some legislative authority. The main aim of the research is to create awareness and impact among the people about the applicability of rule of law.

Objective :

- To know about the judicial power which went beyond the rule of law.
- To get to know about the misuse of delegated power.
- To spread awareness about the Rule of law in Indian Judiciary.
- To create impact on people about the Rule of law.
- To analyse Rule of law efficiency in India.

Review of literature :

Jerg Gutmann and Stefan Voigt (2015)

Recently, several Muslim countries have ratified new constitutions. In this paper, we ask two questions: first, whether Muslim influence has a discernible impact on the content of such constitutions and, second, whether it has an impact on constitutional reality. More precisely, we are interested in the consequences of Islam for institutions securing the rule of law, while taking competing socioeconomic, geographic, and historical explanations explicitly into account. To this end, we construct a new Islamic State Index to measure the influence that Islam has on a society and its political and legal system. ([Gutmann and Voigt](#))

David gilmart(2010)

The author says that Caste, Democracy, and the Courts in India are unique and unified in nature and they exist unilaterally together. The study of the historical roots of democracy in India has attracted so much scholarly attention in a very effective way. Indeed, it has a central theme in the development of systematic historical comparison between democracy and the way the quasi judicial system influenced it. ([Gilmartin](#))

Randall Peerenboom(2009)

rule of law issues, first locating their contribution within the broader literature on the rule of law. The Rule of Law in Historical Context: The Political Salience of the Rule of Law Today Although discussions of the rule of law can be traced back to Aristotle, Ham murabi, and Han Fei Zi, the current worldwide fascination with the rule of law. These findings suggest that more precaution is required in the construction and employment of rule of law measures. ([Peerenboom](#))

C. Raj Kumar(2013)

Legal education plays an important role in developing lawyers who act as social engineers and work towards the cause of nation building. In a globalized world, law schools face the challenges of increased foreign competition and reduction of the role of the state. At the same time, globalization affords space for re-examining higher education systems by affording opportunity for establishing global universities with international collaborations and programs. This article examines the role of law schools in India and proposes reforms in Indian legal education system in the light of globalization. ([Kumar and Kumar](#))

Murlidhar C. Bhandare(2005)

The rule of law could not have been a more appropriate moment to organize this workshop on terrorism. Two major events have coincided. There has been an "International Summit on Democracy, Terrorism and Security" held in Madrid, Spain. Equally in India. It examines how the private sector in India can contribute to imparting legal education in public service. Keeping in tune with the developments brought about by globalization, the article proposes setting up global universities with global curricula, faculty, and programs. ([Cutler](#))

Iqbal A. Ansari(2001)

The rifts created by the demolition of the Babri masjid and the subsequent riots still remain to be bridged. But for any healing to begin requires not merely the direct and impartial intervention of the concerned authorities, but also a sincere and concerted effort to inculcate among diverse communities, acceptance of their differences and to promote areas of integration.[\(Jayasuriya\)](#)

Harrop A. Freeman(1959)

jurisprudence in ancient India . It turns to an analysis of ancient Hindu thought on common jurisprudential issues (the state, law and the rule of law , punishment and procedure) and finally attempts to reveal something of modern Hindu jurisprudence's growth. Even more broadly, the decision led the way in the long and difficult chain of events that finally allowed the beauty of the rule of law to rise above the contentious and seemingly unsolvable disputes over Indian fishing rights [\(Freeman\)](#)

Walekar Dasharath (2010)

functions of parliament and judiciary and establishes the norms for checks and balances. In India there is a separation of functions and not of powers. The equation of Indian parliament and judiciary changed in 1985 regarding the anti defection Act, the Speaker of State Assemblies were given the power to decide the framework is applied to a range of topics, such as democratic stability, plural societies, and elite pacts. The paper also applies its lessons to the case of the Glorious Revolution in seventeenth-century England.[\(Freeman; Mwaikusa\)](#)

Ranbir Singh (2017)

Rule of law is generally understood to be a universal good. However, this paper argues that rule of law is an incomplete and at times, undesirable ideal. Rather, the focus of juridical thought should be on rule of justice. To substantiate this claim, the paper traces the evolution of law in India through three paradigms. Firstly, rule by law wherein, the colonial powers used law as a means to govern the country and exploit its resources. Secondly, rule of law, exemplified in Dicey's conception of treating persons equally and everyone being subject to the law.[\(Sakhrani et al.\)](#)

Nick Cheesman (2014)

One way to conceptualize the rule of law is in terms of substantive legal equality. Burmese farmers and activists mobilizing through the lexicon of law to defend agricultural land against intrusive state projects engage with the rule of law in this sense. Another way is as a language of public and state security. Demands for the rule of law in response to violence in Myanmar's west correspond with this usage. Whereas in established democracies the rule of law as equality complements the rule of law as security, in a democratizing state the two are not necessarily compatible. ([Cheesman](#))

Charles Wilkinson (2020)

new ideas just beginning to remake public wildlife law and policy. We can fairly doubt that Judge Boldt and the Supreme Court would have ruled as they did if Judge Belloni had not written his profoundly insightful and brave opinion. Further, the Belloni decision reached beyond Indian treaty rights per se, energizing the emerging broad and fundamental movement for Indian tribal sovereignty that has revitalized Indian Country. ([Gillroy](#))

Barry R. Weingast (1997)

This paper develops a game-theoretic approach to the problem of political officials' respect for political and economic rights of citizens. It models the policing of rights as a coordination problem among citizens, but one with asymmetries difficult to resolve in a decentralized manner. The paper shows that democratic stability depends on a self-enforcing equilibrium: It must be in the interests of political officials to respect democracy's limits on their behavior. The concept of self-enforcing limits on the state illuminates a diverse set of problems and thus serves as a potential basis for integrating the literature. ([Weingast](#))

Timothy A. O. Endicott (1999)

No community fully achieves the ideal of the rule of law. Puzzles about the content of the ideal seem to make it necessarily unattainable (and, therefore, an incoherent ideal). Legal systems necessarily contain vague laws. They typically allow for change in the law, they typically provide for unreviewable official decisions, and they never regulate every aspect of the life of a community. ([Endicott](#))

Peter Ingram (1985)

the ideal can never be achieved because of these features of legal practice. But I ask what counts as a 'deficit' in the rule of law, and I argue that none of these features of legal practice necessarily amounts to a deficit. I conclude that communities fail to achieve the rule of law only because of official infidelity to law, and the failure of lawmakers to pursue the ideal (or their decision not to pursue it). The rule of law is not necessarily unattainable. [\(Ingram\)](#)

Thomas Carothers (1998)

The rule of law is undeniably important to peaceful, free, and prosperous societies, but it is no quick fix. Imparting the rule of law to a society with no history of it involves changing the attitudes of masses and elites and creating a political culture in which nobody is above the law. Unfortunately, proponents of rule-of-law reform tend to have simpler, less lasting things in mind, like writing legal codes and sprucing up courts. [\(Ikenberry et al.\)](#)

Svend-Erik Skaaning (2010)

This article offers a comparative review of seven rule of law measures. It demonstrates that the measures differ in both form and appropriateness and that the differences have consequences for the empirical results. The shortcomings are, among others, restrictions in scope and availability of disaggregate data, insufficient codebooks, and unjustified aggregation procedures. In most cases, the task of conceptualization is not grounded in theory, and key principles of the rule of law are left out while more inappropriate elements are included. [\(Skaaning\)](#)

H. L. A. Hart (1958)

the Positivist school of jurisprudence from many of the criticisms which have been leveled against its insistence on distinguishing the law that is from the law that ought to be. He first insists that the critics have confused this distinction with other Positivist theories about law which deserved criticism, and then proceeds to consider the merits of the distinction. A Kantian theory of international law can help to recover that moral element. [\(Hart\)](#)

Terry Nardin (2008)

Recent trends in international law scholarship recycle objections to international law advanced by an earlier generation of political and legal realists. Such objections fail to understand the

place of international law in the global order. To understand that place, we must distinguish the idea of the rule of law from other understandings of law. That idea is an inherently moral one. Theories of international law that ignore the moral element in law cannot distinguish law as a constraint on power from law as an instrument of power. [\(Nardin\)](#)

Todd J. Zywicki (2003)

After decades of neglect, interest in the nature and consequences of the rule of law has revived in recent years. In the United States, the Supreme Court's decision in *Bush v. Gore* has triggered renewed interest in the nature of the rule of law in the Anglo-American tradition. Meanwhile, economists have increasingly come to realize the importance of political and legal institutions, especially the presence of the rule of law, in providing the foundation of freedom and prosperity in developing countries. [\(Zywicki\)](#)

Robert T. Deacon (1994)

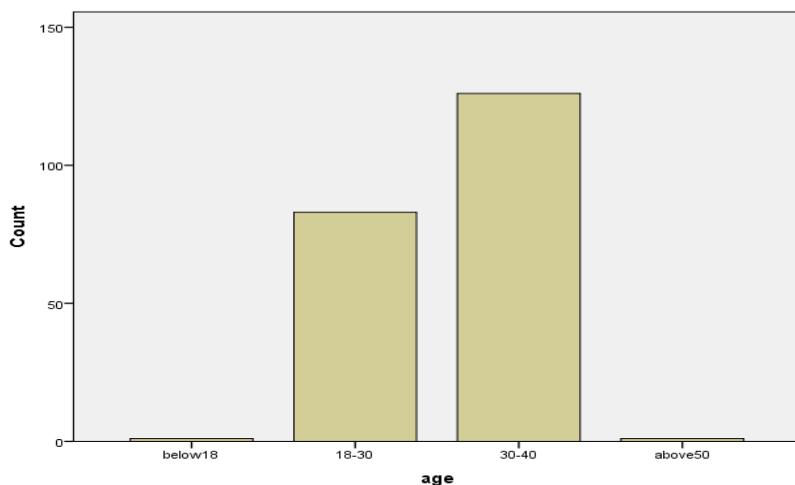
Relationships between deforestation and population pressure, income growth, and insecure property rights are examined with data from 120 countries. Insecure property rights are hypothesized to arise from two sources: government instability or inability to enforce ownership and an absence of government accountability. The former source is captured by measures of general lawlessness such as guerrilla warfare, revolution, and frequent constitutional change. The latter is proxied by variables indicating the type of government executive, frequency of political purges, and the existence of an elected legislature. [\(Deacon\)](#)

Methodology:

The research method followed here is empirical research. A total of 204 samples have been taken out of which is taken through convenient sampling. The sample frame taken by the researcher through online methods and also nearby people's. The Independent variable taken here is age, gender, education qualification, occupation. The dependent variables are awareness, impact and discretion of authorities in respect to rule of law. The statistical data used by the researcher is graphical representation.

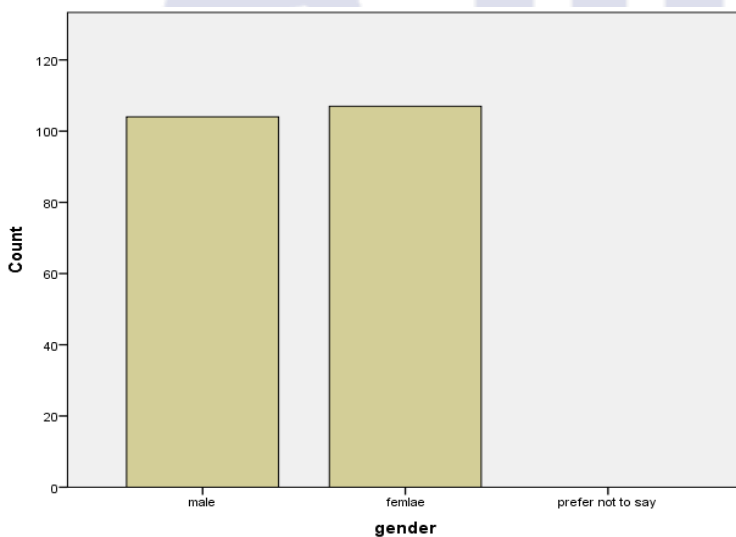
Analysis :

Fig 1:



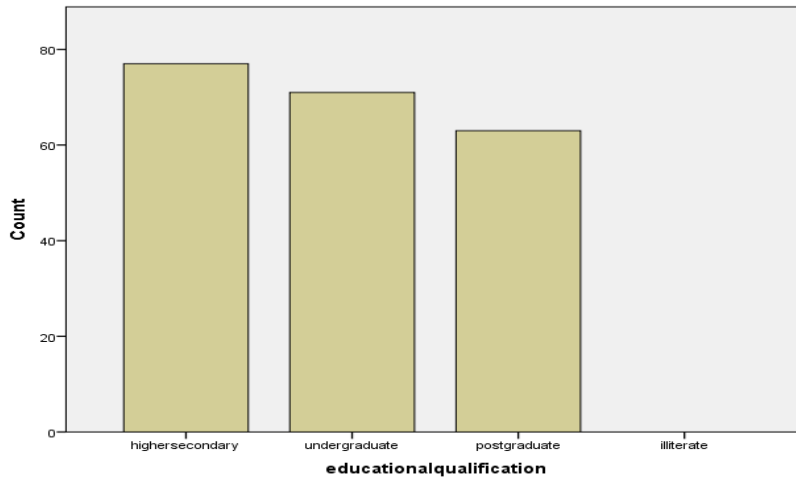
Legend : this shows about classification of the total number of responses according to age group of the sample

Fig 2:



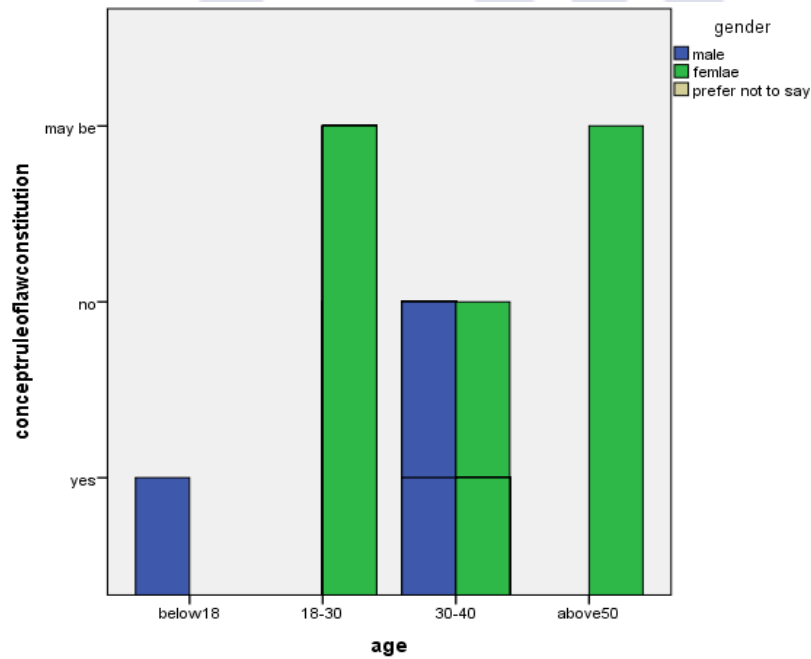
Legend : this shows about the classification of the total number of responses according to the gender of the samples

Fig 3:



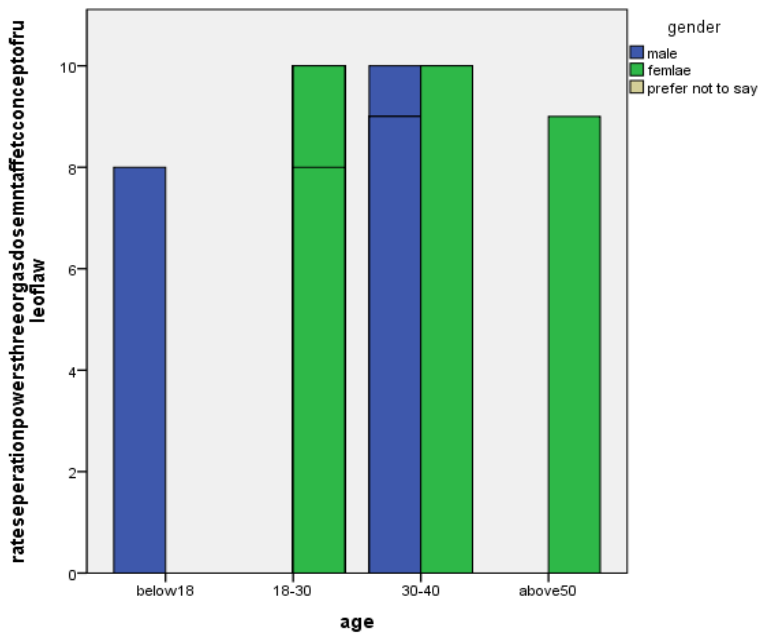
Legend : this shows about classification of the total number of responses according to the educational qualifications of the sample

Fig 4:



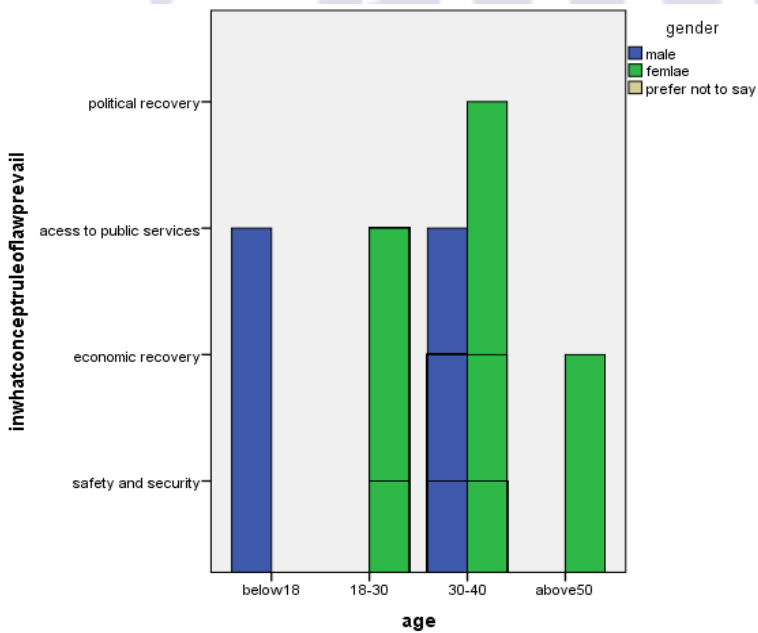
Legend : This graph shows the gender and concept of rule of law been adopted in Indian constitution

Fig 5:



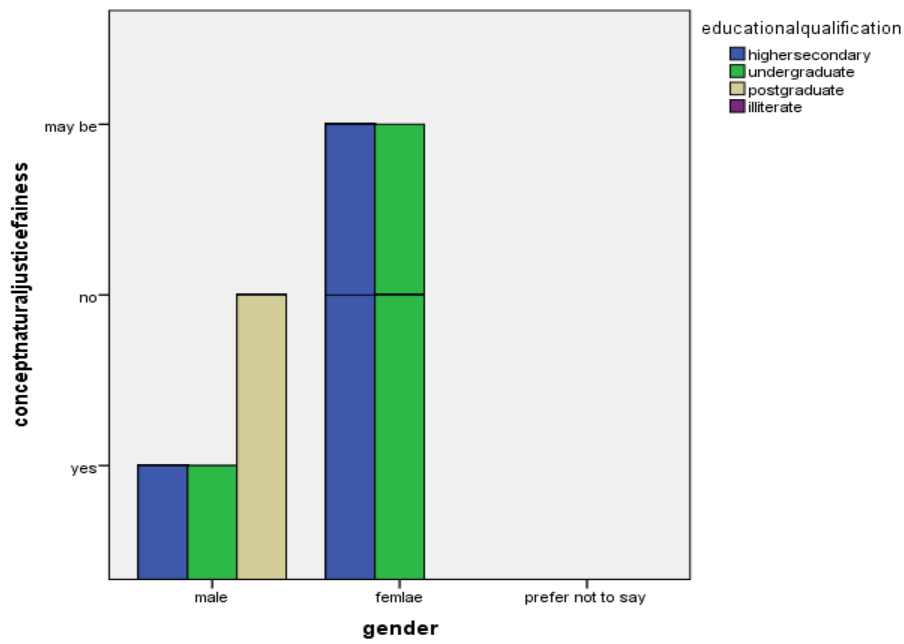
Legend : It show the gender and separation of power between three organs doesn't affect the concept of rule of law.

Fig 6:



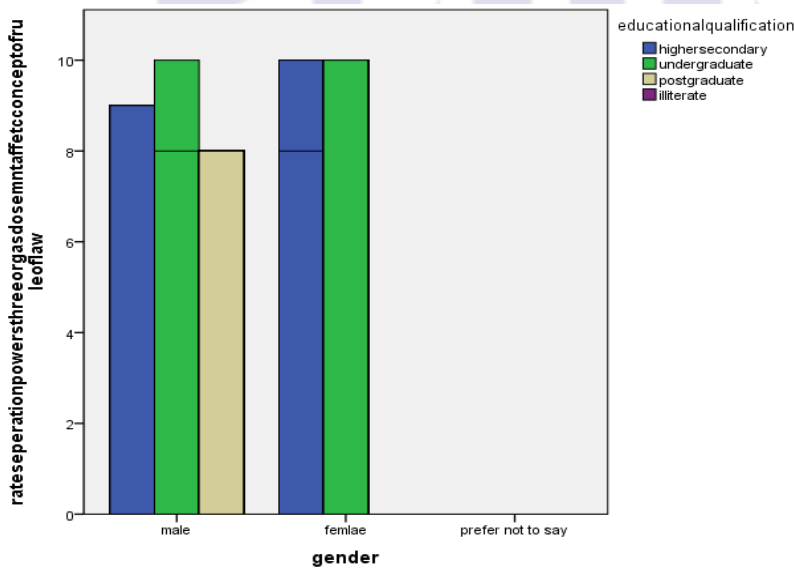
Legend : It show the educational qualification and concept of rule of law.

Fig 7:



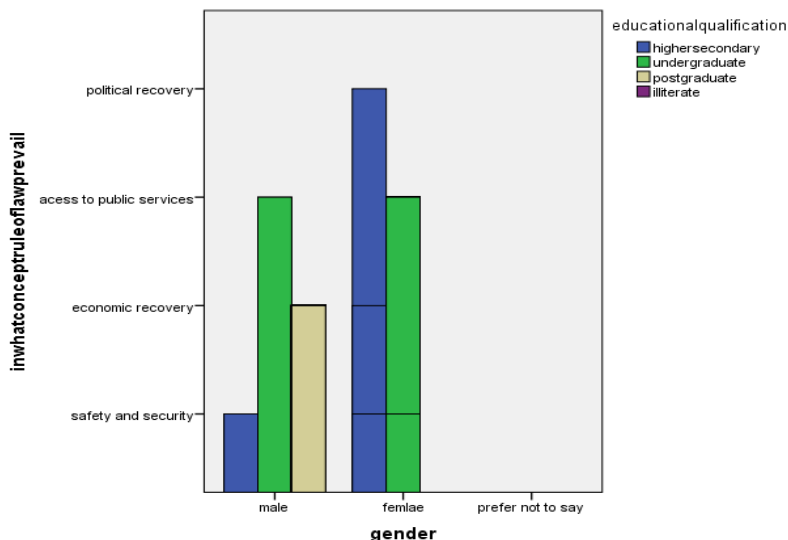
Legend : This graph shows the education qualification and the concept of rule of law adopted in Indian constitution.

Fig 8:



Legend : It show the educational qualification and that separation of power between three organs doesn't affect the concept of rule of law

Fig 9:



Legend : It show the gender and discrimination of authorities against students

Results:

From fig 1, we can observe that there are more respondents under the age group of 30 to 40 years and there are an equal number of respondents under the age group of below 18 and above 50.

From fig 2, we can observe that male and female respondent are almost same but female respondent are bit higher in a small difference

From fig 3, we can observe that most of the respondents were higher education students and postgraduate students were less in number

From fig 4, we can observe that there is a comparison between gender and the age where most of the people in the age of 30 - 40 preferred may be as their choice

From fig 5, we can see the comparison between age and gender where most of the people in the age group of 18 especially females rated upto 10 in the figure as they completely agreed to the statement given by me

From the fig 6, most of the people in the age group of below 18 have choose political recovery as their option and least choose option is safety and security

From fig 7, we can observe that there is a comparison between educational qualification and

the gender and where most of the people who has their education qualifications of undergraduate preferred may be as their choice

From fig 8, we can see the comparison between educational qualification and gender where most of the people in the age group of 18 especially females rated upto 10 in the figure as they completely agreed to the statement given by me

From the fig 9, most of the people in the age group of below 18 have choose political recovery as their option and least choose option is safely and security

Discussion:

From fig 1,2,3 we can observe the total responses collected from each group such as age, gender and educational qualifications. By observing the fig 4, we came to know that most of the people in the age group of 30 to 40 have chosen may be as their option as they didn't have a clear idea that the concept of rule of law been adopted in Indian constitution but most of the people in the age group of below 18 have preferred yes as their option as they can able to relate what is happening to them and to their neighborhood, and also most of them were females which we can get to know that females were not accepting concept of rule of law been adopted in Indian constitution and leads to discrimination. Moreover people on the age group of above 50 especially men have chosen no as their choice as they says all the concepts of rule of law.

By observing the fig 5, we came to know that most of the people have rated upto 10 as their preferences as they agreed that separation of power between three organs doesn't affect the concept of rule of law, where most of them are in the age of below 18 especially females have rated upto ten where they can relate it to their present situation, and most of the male in the age group of above 50 have rated upto 10 and also people in the age group of 30 to 40 have rated upto 10 and the least rated persons are male in the age group is 30 to 40 as they rated upto 7.

By observing fig 6, we came to know that most of the people in the age group of below 18 have preferred political recovery concepts does rule of law is prevailing more in India as their option as they think discrimination is mainly based on the political recovery and other three age groups where preferred racism as their option as they think that now a days economic

recovery is prevailing more in India and most of them male ,and the least preferred option is safety and security so here they says caste discrimination was extinct.

By observing the fig 7,we came to know that most of the people who has their educational qualification as higher secondary have choose may be as their option as they was not clear about the currently and most of the people who has their educational qualification of undergraduate have chosen no as their opinion and the least preferred option is yes by the people who has their educational qualification higher secondary.

By observing the fig 8, we came to know that most of the people have rated upto 10 as their preferences as they agreed that separation of power between three organs doesn't affect the concept of rule of law , where most of them are in the has their educational qualification of higher secondary especially females have rated upto ten where they can relate it to their present situation, and most of the male who has their educational qualification of undergraduate have rated upto 10 and also people who have their educational qualification as post graduate have rated upto 10 and the least rated persons are female in the educational qualification of higher secondary as they rated upto 7.

By observing fig 9, we came to know that most of the people in the age group of below 18 have preferred political recovery as their option as they think it is the main concept that rule of law is prevailing in India where mainly based on the political recovery and other three educational qualification groups where preferred access to public transport as their option as they think that nowadays access to public is prevailing more in India and most of them male ,and the least preferred option is safety and security .

Limitations:

The major limitations of my study are sample frames. The sample size is one of the major drawbacks as we are in a pandemic situation . Due to the ongoing pandemic situation, the respondents were connected through different online sources, including sending questionnaires through email. The restrictive area of sample size is also another limitation . The targeted audience is a major drawback.

Conclusion :

The founding fathers of Republic of India accomplished what the remainder of the globe although impossible- establish a country that might follow the letter of the law and implement the Rule of Law. altogether matters like the protection of the rights of the individuals, equal treatment before the law, protection against excessive irresponsibility, the Constitution of Republic of India has provided enough mechanisms to confirm that the Rule of Law is followed. Through its selections, the Courts have strived to strengthen these mechanisms and guarantee swish justice delivery to any or all voters. issues like obsolete legislation and overcrowded courts are however little hindrances and bodies like the Law Commission of Republic of India work towards ironing out these issues with the aim of achieving a system wherever there aren't any barriers to the graceful operation of the Rule of Law.

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