

Explain the concept of "Rule of law" and its significance in ensuring the fair administration of justice within a democratic setup. Discuss its practical applications in any two countries.

1) Introduction:

The phrase "Rule of law" is the foundation base of any democratic society. ~~At it~~ As the nucleus is the core of atom, rule of law is the core of democracy. It is hard to ensure fair administration of justice without rule of law.

2) From Rule of Man to Rule of Law:

It is the struggle to convert rule of man to rule of law from medieval age to modern age. The concept is centuries old and it is continuously modifying itself from time to time. The given chart will make it clear what does rule of law mean in different time periods.

Plato:
4th Century B.C

Law should be supreme in nature
No one is above the law.

Aristotle:
4th Century B.C

Law should be the final sovereign
The rule of law is to be preferred
to that of any individual.

Henry de Bracton:
13th Century A.D.

Rulers are subject to law
Supremacy of law, not the
rules

A.V. Dicey:
19th Century A.D.

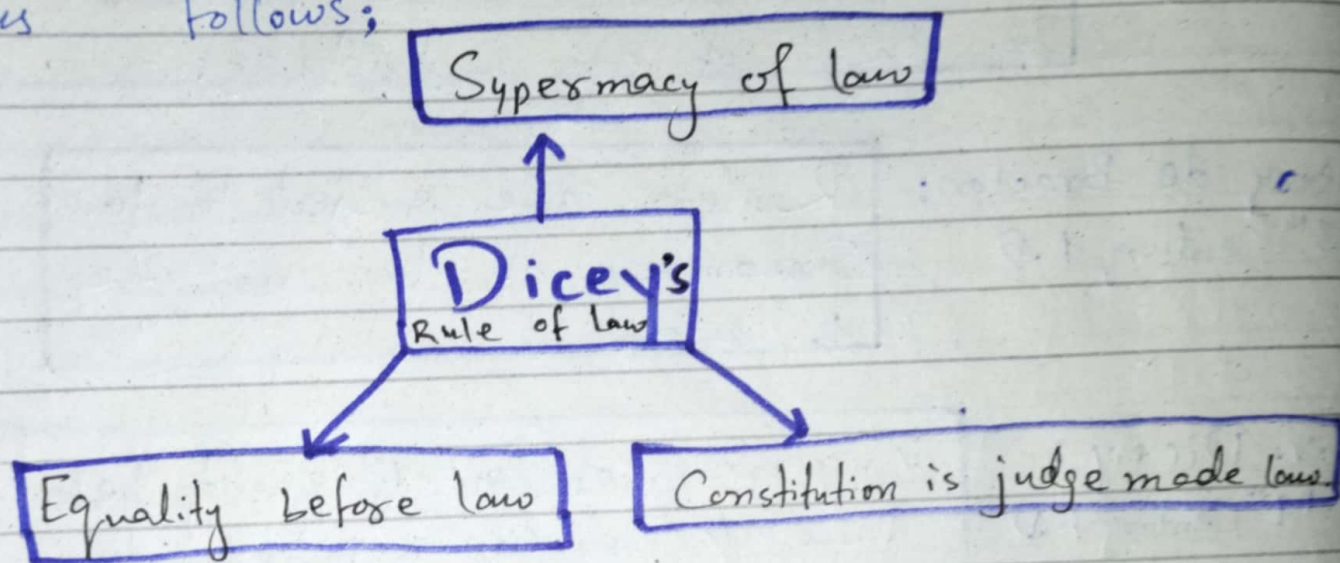
i/ Supremacy of law ii/ equality before
law iii/ Constitution is judge-made law
Ruler and ruled are in a same
row and individual liberty is
the result of judicial decisions.

In modern time, it is not said that
"I AM THE LAW" rather "I AM THE
SUBJECT TO THE LAW". Thus, the
rule of law is the very essence of
every democratic state.

3) Conceptualizing Rule of Law

Rule of law which means supremacy

of go law and not of the individual or ruler. The concept is evolutionary, in the modern time period, in the words of A.V. Dicey it is defined as follows;



a) Equality before law:

"... every man, whatever his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of ordinary tribunals."

It ensures that every individual, irrespective of their status or wealth, is treated equally in the eyes of law.

b) Supremacy of Law:

It means law is superior and no man

is above the law. It also indicates the absence of arbitrary power. It implies that "...no man is punishable except for ~~distinct~~ or can be lawfully made to suffer in body or goods except for a distinct breach of law..."

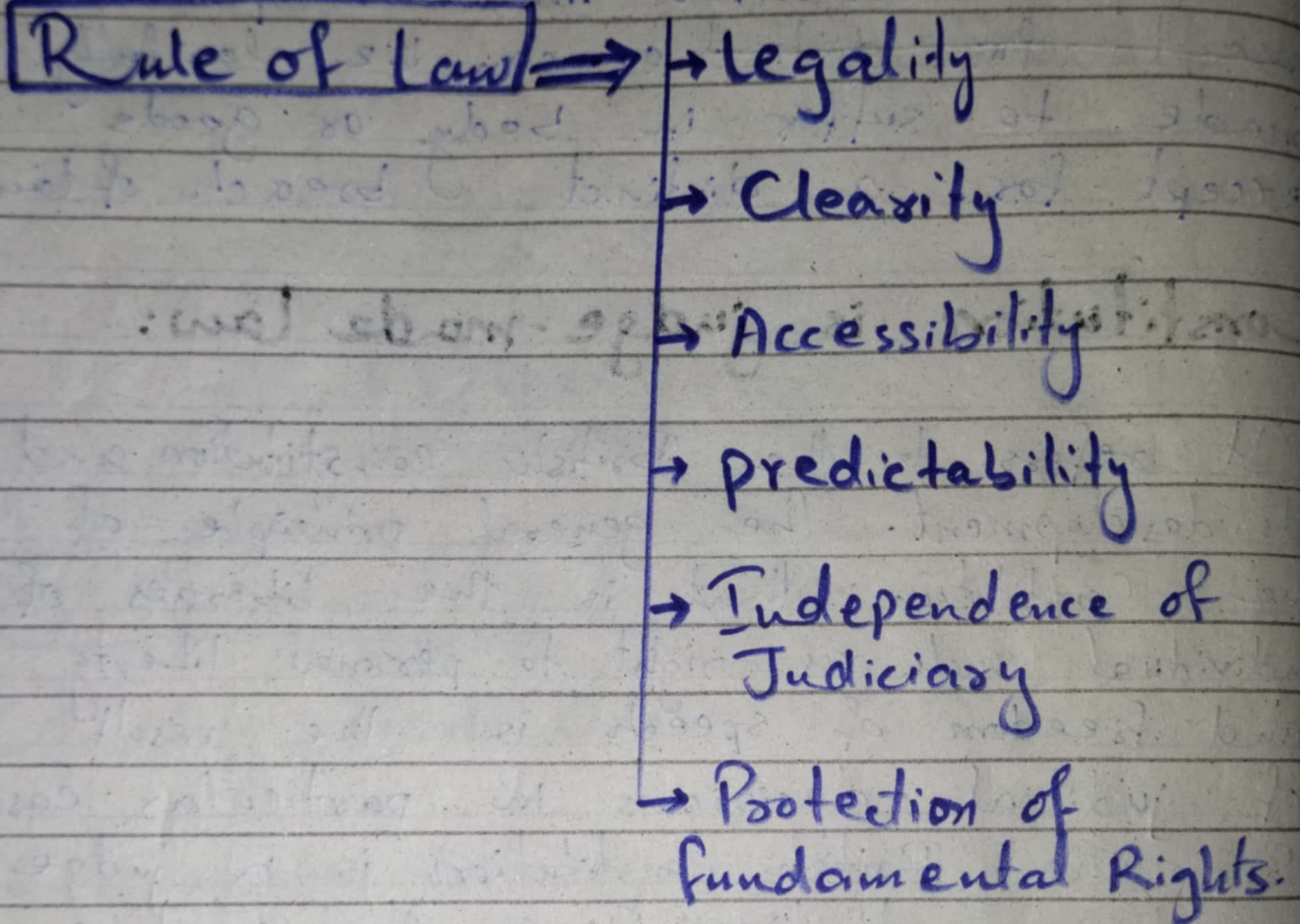
*) Constitution is judge-made law:

It refers to the British constitution and its development. The general principle of the constitution that is the liberties of individual such as right to personal liberty and freedom of speech is the result of judicial decisions in particular cases. So, the British constitution is a judge-made constitution. In other countries, the fundamental ~~laws~~^{rights} of individuals are derived from the constitution and not from the courts. But the courts ensure the practicability of the laws.

⇒ Other characteristics of Rule of Law.

• The rule of law is based on several

principles. Some are discussed below;



a) Legality

Whenever the governments take the decision that impacts a number of people, it should be according to the specific law.

For instance; imposing restrictions of public meeting in COVID-19 was under this

b) Clarity:

Law must be clear, that what it means. If it is vague, public can not clearly understand it, how they will adjust their behaviours accordingly.

c) Accessibility.

Law should not be expensive or exclusive to ordinary peoples. It's content should not be hidden. Government should publicize law and judgements so that public can comply with it.

d) predictability

By establishing set procedures and known legal standards in a law, it offers predictability. Citizens know their rights and obligations. Also, they are aware of what is illegal act and what will be its consequences.

e) Independence of Judiciary:

Independent and impartial judges are

necessarily do for smooth run of law.
This helps to hold power to accountable if they act without being authorized to do so.
For instance, a police officer can not arrest a citizen without a warrant. An

An independent judge means the parliament, president, executive or any other national body can not tell the judge what to do.
An impartial judge is not beholden or connected to any of the parties in the disputes.

f) Protection of fundamental rights.

Law should not violate the fundamental human rights i.e. right to property, speech, freedom etc. Law should be made to protect individuals and not to harm them. Any law which fail to do so, can be considered as unconstitutional.

4) Rule of Law ~ fair administration of justice:

"Rule of law is not a rule of a law but a persuasive guide for the legislature, the executive, and the judiciary, linked in practice..."
(Hamid Khan, M. Waqar Khan: Comparative Constitutional Law).

All the principals and characteristics of rule of law written previously assures the smooth and fair administration of justice with in a democratic state!

5) Practical Applications:

a) United Kingdom:

The UK, though lacking a written constitution, is often cited as the cradle of the Rule of Law, owing largely to the Magna Carta of 1215. The principle is deeply embedded in the UK's legal traditions.

Notable instances include:

1. Habeas Corpus Act 1679: This law prevents unlawful and indefinite imprisonment. It mandates that a person can be held in custody only with legitimate legal jurisdictions.

2. Case of Dr. Bentley 1762: Demonstrates the rule of law in action, King George III's attempt to confer a degree upon an undeserving favourite was thwarted by the courts, reinforcing that even the monarch must respect established procedures and laws.

b) India

With its diverse population, India's adherence to the Rule of Law is pivotal in holding its democratic fabric together. The Indian Constitution, adopted in 1950, establishes the Rule of Law as a fundamental principle.

1. Article 14 of the Indian Constitution:
It guarantees equality before the

law and equal protection of the laws, underscoring the universal applicability of legal standards.

2. The Kesavananda Bharati case:

The landmark judgment by the Supreme Court of India declared that the basic structure of the Constitution, including Rule of Law, cannot be altered by Parliament, thereby ensuring that even the highest legislative body is bound by the Constitution.

6) Conclusion:

The Rule of Law is the bedrock upon which the edifice of democracy stands. Its significance transcends time and borders, ensuring that justice, fairness and equality is the paramount in democratic societies.