

QUESTION

The 'Rule of Law' is one of the most fundamental features of British Constitution. Do you agree with statement? Explain the concept in light of Dicey's Exposition on Rule of Law and its present day implications in Modern Era.

INTRODUCTION

"The rule of law is preferable to that of any individual."

(Aristotle)

The rule of law is one of the most fundamental features of British Constitution. In few cases, it has been recognized as essential part

by the courts. In Dicey's exposition, rule of law has three main principles. Moreover, in modern world, rule of law has taken shape of universally accepted principles of democratic dispensation, which make rule of law a comprehensive concept.

RULE OF LAW AS FUNDAMENTAL FEATURE OF UK'S CONSTITUTION

In UK, rule of law is recognized as the one of the fundamental features of the constitution. A few cases may elaborate the argument.

a) M v. Home Office

It was a case which involved a cabinet minister, who

Use specific and self explanatory headings and use these as reference in the description

was charged for contempt of court. In the ruling the court ruled that rule of law in UK means no one is above the law. No matter what is the position or rank of the person, law will be applied equally on all. Therefore, this ruling laid the foundation for the principle of legal equality.

Similarly another case also illustrated the importance of rule of law in the British constitution.

b) R v. Secretary Home

This case involved the court's ruling with regard to relation between the British parliament and the

rule of law. In this case Lord Steyn said that unless there is the clearest provisions to the contrary, the parliament is presumed not to legislate contrary to the rule of law. Thus, rule of law has significant importance in the British constitution.

DICEY'S EXPOSITION ON RULE OF LAW

The rule of law is based on three fundamental concepts according to Dicey.

a) The absence of arbitrary of Power

It means that the power granted to bodies in the constitutional cannot be

exercised arbitrarily. No person can be convicted or put to trial, except in accordance with the procedure defined in the law.

Relate your headings and arguments with the question statement

b) Equality Before the Law

No man is above the Law. Notwithstanding one's rank or position, he or she would be equal in front of law and ordinary courts. On this, Dicey deviates from French *droit administratif* that puts office-holders' conduct during office in administrative courts.

c) General Principle of the British Constitution

According to Dicey, the general constitutional principles of

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the UK's constitution are outcome of judicial decisions. Personal or civil liberties and freedom are the outcome of Judges' decisions in UK. Thus, rule of law is the general principle of UK's constitution, as it has become more align with fundamental rights.

MODERN DAY CONCEPT OF RULE OF LAW

Owing to the contributions of Dicey, modern day rule of law is more aligned with right of man. Therefore, in modern sense rule of law has acquired many characteristics.

a) Supremacy of the Constitution

Supremacy of the

constitution is a defining feature in modern day expression of rule of law. When taken in literal sense it opens up myriad intersections for rule of law with other democratic principles.

i) Observance of Law

This principle asserts that rule of law aligns with the observance of law. Therefore, a law must be followed and implemented, if it is not against the constitution.

Add and highlight references/examples against these arguments

ii) Conforming to modern concepts

It means that rule of law closely aligns with

modern democratic principles, such as due process, equality before law, separation of powers, independence of judiciary and fundamental rights. Thus, conformity to modern ideals is imperative to give a more comprehensive understanding of rule of law.

CONCLUSION

Rule of law refers to rule of constitution, not men. It is an essential part of the British constitution. Dicey's exposition of rule of law, based on three principles, has transformed rule of law to take a more comprehensive and holistic shape and outlook in the modern context.