

ANALYSIS OF JUSTICE AND THE RULE OF LAW

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INTRODUCTION

Along with democracy and human rights, the rule of law is a key idea in international relations and the subject of heated discussion in many nations. It is frequently used as a political ideal to promote greater respect for law and legal institutions in contemporary society and used as a benchmark to distinguish between governments where the law is dominant and those where it is not. As a legal doctrine, it is embedded in many constitutions, commonly referred to by courts and explained at length in legal principle.

UN AND THE RULE OF LAW

The UN System supports the rule of law in constructing positive and effective governance in military conflict and fragile countries, working to build efficient, responsible, and credible institutions and enhancing cooperation between national authorities, local government, and other sub-national authorities in order to achieve lasting peace and development.

The UN system collaborates with national partners to create national strategic planning for law reform and the provision of services in order to improve access to justice and effective governance. In order to support Member States in enhancing justice, the UN works to: enhance protection under the law, legal awareness, and legal assistance; civilized society and parliamentary monitoring and supervision; address challenges in the justice system, such as cruel treatment of prisoners, protracted preventive detention, and tolerance for those who commit significant crimes associated to conflict, including physical and gender-based abuse, and development of ties between formal and informal systems.

The justice aspects of peacekeeping missions enable setting the stage for such relatively long reinforcing as well as restructuring of law enforcement organizations, which calls for a close partnership with public governments, new technology and innovation, and

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social order who can really carry on the task after the objective is over. This is necessary because a protected system fosters people's faith in the political settlement while also favourable to sufficiently long developmental projects.

RULE OF LAW UNDER THE EUROPEAN COMMISSION

One of the guiding principles of the EU and the core beliefs that guide its actions in its international relations is the preservation of the law and the accessibility and inseparable nature of fundamental rights and liberties. Imposing the rule of law, which is based on the ideas such as the rule is ultimate, everybody is equal in the eyes, and everyone is responsible for their acts, is inextricably linked with improving the judicial system and increasing a person's accessibility to justice.

One of the driving principles of the European Union's foreign policy is the rule of law, which translates into the following actions in regard to the development of collaborative efforts²:

- Uphold, defend, and advance fundamental liberties and rights
- Achieved by ensuring that the executive, legislature, and judicial systems have separate authority
- Modernize the judicial system to enhance standards in prisons.
- Foster transparency and accountability.
- Improve the organizational and administrative skills of judicial entities.
- Ensure civil surveillance and control of the operation of the judicial process.

THE FOLLOWING CHALLENGES TO JUDICIAL REFORM MAY ARISE

- The procedure is difficult, intensely controversial, and context-dependent and rigid programming methods will not produce the greatest outcomes.
- Regulatory and administrative reforms take time to implement and must face change opposition.
- It takes time to build people's confidence and does not change quickly.

² EU, *Justice and the Rule of Law*, <https://international-partnerships.ec.europa.eu/policies/peace-and-governance/justice-and-rule-law_en> accessed January 07 2023.

- Countries that are fragile or in the midst of a conflict present an even more complicated situation with interconnected problems including a repressive regime, widespread human rights abuses, bribery, a lack of financial resources, restricted access to fairness and knowledge, etc.
- Therefore, evaluations are essential to enhancing our methods for providing help, and they typically result in significant steps: in addition to supporting organizational growth, we also need to support individuals' constitutional rights and place a greater emphasis on customer satisfaction.

CASE LAWS

The judicial system declared in the case of Madhav Haskot that offering free legal assistance to the underprivileged and vulnerable was a crucial component of the rational, equitable, and just process in response to the shifting times and ambitions of the populace. This was done in an effort to ensure that the fundamental rights embedded in the Indian Constitution possess significance for the oppressed and weaker sections of the society.

In another case of Hussainara Khaton, the fast trial was deemed to be an important and vital component of the right to life and liberty guaranteed by the Indian Constitution while taking into account the circumstances of the inmates in prison. The Supreme Court ruled in *Nandini Satpathy v. D.L. Dani*³ that an alleged person is entitled to speak with an attorney while being questioned and that the prohibition against making unnecessary comments should be broadly construed to include the pre-trial period as well.

The Supreme Court also established some protections for those who have been arrested in the case of *Sheela Barse v. State of Maharashtra*⁴. Also, the Supreme Court ruled in *Bandhua Mukti Morcha* appeal that the right to life granted by the Constitution of India included the right to dignity and decency and live without being exploited. As part of a continuing legal process, the courts have so been intervening lawfully in situations involving human rights violations.

³ *Nandini Satpathy v. D.L. Dani* [1978] AIR 1025

⁴ *Sheela Barse v. State of Maharashtra* [1983] AIR 378

The court has given important decisions on issues like the right to be protected from preventive detention⁵, the right to not be restrained by chains⁶, the right to be free from handcuffs⁷, the right to be protected from custodial violence⁸, the protection of the arrested person⁹, the right of female workers to be free from workplace sexual harassment¹⁰. Since there was no compensating legislation, the Judiciary brought confidence by creating the principle of compensation¹¹ in the event of torture comprising mental abuse committed by the Government or its agents. With the help of this, numerous tormented sufferers were granted their fair compensations.

CONCLUSION

The National Commission to Review the Working of the Constitution, established in India in the 50th year of Independence, recommended in its official presentation that the ability to seek justice be included in the list of fundamental rights by adding Article 30(a) of the Constitution of India.

⁵ *Sunil Batra vs Delhi Administration* [1980] AIR 1579

⁶ *Charles Sobraj vs The Suptd., Central Jail, Tihar* [1978] AIR 1514

⁷ *T.V. Vatheeswaran vs State of Tamil Nadu* [1983] AIR 361

⁸ *Smt. Nilabati Behera Alias Lalit vs State of Orissa and Ors.* [1993] AIR 1960

⁹ *Shri D.K. Basu, Ashok K. Johri vs State of West Bengal, State Of U.P.*, AIR 1997 SC 610

¹⁰ *Vishaka & Ors vs State Of Rajasthan & Ors.*, AIR 1997 SC 3011

¹¹ NJA South Zone Regional Judicial Conference on “Role of Courts in upholding Rule of Law” at Tamil Nadu State Judicial Academy, Rule Of Law & Access to Justice <<https://www.latestlaws.com/wp-content/uploads/2015/04/Role-of-Courts-in-upholding-Rule-of-Law.pdf>> accessed January 13 2023.