

RULE OF LAW

Law exists in a society for the purpose of regulating a civilization. It provides a binding framework to any society, for the resolution of their conflicts and help in maintaining harmony.

Rule of Law, can be interpreted in two ways: Political or philosophical but its meaning is not precise as supported by D.M. Walker. Rule of law is subjective and has more than one definition. It may mean different things to different people at different times. Rule of law can be traced back to time of Socrates, Cicero, Plato & Aristotle (philosophical view). For liberalists it means freedom for all under the law while for Marxists theorists like EP Thomson it means law represents interests of the powerful (political view).

Acceptance of a certain form of rule of law has varied nation to nation. For example, in Marxist States such as North Korea, people have been living peacefully under the 3 generation rule of the Kim family, which is nothing less than a form of dictatorship. People have accepted the government there and they believe 'rule of law' exists.

Even S 1 of the Constitutional Reform Act 2005 does not define what rule of law exactly is. For many theorists the definition is that any executive, public official or any person with authority may exercise its powers only if authorized by law. That law should not only legitimize use of power but also protect rights of the people.

Modern liberal democracies that have had a break from the past require something more than just the bare minimum form of rule of law. Believers of democracy want the 'law and government' to exhibit greater qualities. What those qualities should be has been argued by many theorists. Theorists such as Lord Bingham and Joseph Raz focus on qualities of law such as: equality before the law; clarity, stability and preciseness; independence of the judiciary and insurance of optimal performance of the judiciary. The focus seems to be on proper procedure of law, which has also been supported by the courts. (Merby v. Loughton) (Sussex Justices, Ex parte McCarthy) (Ridge v. Baldwin)

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Table of Contents Rule Of Law Essay

1. Understanding the eBook Rule Of Law Essay
 - The Rise of Digital Reading Rule Of Law Essay
 - Advantages of eBooks Over Traditional Books
2. Identifying Rule Of Law Essay
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Rule Of Law Essay
 - User-Friendly Interface
4. Exploring eBook Recommendations from Rule Of Law Essay
 - Personalized Recommendations

- Rule Of Law Essay User Reviews and Ratings
- Rule Of Law Essay and Bestseller Lists
- 5. Accessing Rule Of Law Essay Free and Paid eBooks
 - Rule Of Law Essay Public Domain eBooks
 - Rule Of Law Essay eBook Subscription Services
 - Rule Of Law Essay Budget-Friendly Options
- 6. Navigating Rule Of Law Essay eBook Formats
 - ePub, PDF, MOBI, and More
 - Rule Of Law Essay Compatibility with Devices
 - Rule Of Law Essay Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Rule Of Law Essay
 - Highlighting and Note-Taking Rule Of Law Essay
 - Interactive Elements Rule Of Law Essay
- 8. Staying Engaged with Rule Of Law Essay
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Rule Of Law Essay
- 9. Balancing eBooks and Physical Books Rule Of Law Essay
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Rule Of Law Essay
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Rule Of Law Essay
 - Setting Reading Goals Rule Of Law Essay
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Rule Of Law Essay
 - Fact-Checking eBook Content of Rule Of Law Essay

- Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
- 14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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