

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)

Rule Of Law Essay

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