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A Comparative Analysis of Rule of Law in U.K. and India

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ABSTRACT

“The rule of law” term is vivid, unlike its definition. Many jurists, judges, and research scholars have made efforts in locating the true contours of the concept of rule of law but given the fact that it evolves in accordance with the sociocultural context of a given territory, has rendered its definition almost impractical. This research paper is substantially oriented to pin down factors responsible for Darwinism of the rule of law in the U.K. and India, considering their historical and social-cultural context. That, how the concept of the rule of law has shaped the legal systems of the U.K. and India. It is quite an unfeasible task to discern who has the perfect compliance to the concept of the rule of law; rather, looking into the substantial compliance to the rule of law would be more productive. This research paper aims to critically compare the existence and productivity of the rule of law within the legal systems of both nations and how these two legal regimes have been proficient in enhancing and delivering the ice to the people by officially recognising their Fundamental rights and liberties, thus, shaping the contours of the concept behind the term “rule of law”. The judiciary retains substantial credit for giving meaning and real existence to the concept of the rule of law. As far as the credits for the concept of the rule of law are concerned, the researcher has tried to break the fallacy that A.V. Dicey has given the concept of the rule of law. And the concept of the rule of law is far from being a final product; it is still a “work in progress” for the very reason that with the change in time, the rule of law too donned characterised itself as dynamic and it will keep up with changing needs of the society, thus, making it further difficult to assign it a single conclusive definition.

Keywords: Rule of law, Parliamentary Sovereignty, Constitution, Constitutional Sovereignty, Judiciary.

I. INTRODUCTION

“The rule of law is a product of imagination before it is product of legislation or judicial acts”

- Paul W. Kahn, 1990

Essentially, the contours of rule of law have been elusive. The essence of the ROL does vary

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in context to the nation given its socio-cultural aspect. But if we look to define the Rule of Law at once and for all, its general essence lies in the “we the people...” as has been mentioned in the preambles of almost all the Constitutions worldwide. As J. Anthony Kennedy says,

“the term rule of law is often invoked yet seldom defined”. There has been a constant struggle on the part of jurists, judges, and scholars to exhaustively spell out the contours of rule of law. Even Tom Bingham in his book “The Rule of Law”, came to the finding that this concept is very much uncertain and is a subjective expression. Rule of law has offered much confusion owing to its ideological abuse and rampant use. The concept of ROL was never meant to be defined, rather it was to be understood and applied. It is all pervasive and has several meanings, the reason being that it formulates a distinct meaning and adapts itself in conformity with the socio-cultural aspect of a given territory. As Paul W. Kahn conveys, rule of law never arose from any formal enactment or judicial activism; rather it is a product of social upheaval and the ways in which such upheavals were tackled. Another reason which could also be attributed to the failure of defining rule of law is that since its inception, it has been constantly evolving and thus, making it difficult to lay down its contours encapsulating all of its meaning.

ROL owes its origin to the greater charter of Magna Carta (1215), a voice of people being ruled against its ruler which in contemporary times we address through the phrase “we the people”. From 1215 to 2022, the rule of law went quite a journey from ‘Magna Carta’ to ‘we the people...’ and over time it has gained phenomenal significance that even the originators couldn’t even think of. I am using the phrase “we the people” again and again for the reason that most constitutions today begin with this phrase thus, accentuating the necessity to cater to the needs of popular sovereignty which has been the primary leitmotif of rule of law since the existence of Magna Carta. This argument further draws support from what Aristotle said, “government by laws and not by men”. Rule of law could be said to be the ultimate harbinger of justified governance under the supremacy of legal rule. This supremacy of law may be via a written or unwritten constitution with the underlying idea to enlarge the scope of liberties of “we the people”. Over time, people all over the globe gradually started living under democratic regimes which entailed the values of rule of law to ensure the incremental scope of freedom and liberties. ROL would remain an imaginative idea had it not been accompanied by a legal system to bring into existence the underlying values of this concept thereby rule of law cannot work in isolation. ROL encompasses certain central tenets necessary for a legal system to work properly such as law must be supreme, powers must be independent and separate, known & predictable, equal application, fair & just laws, robust enforcement mechanism, an independent judiciary, & participation.

Liberties devoid of enforcement would take us back to the regime of tyranny and oppression thus, subverting the significance of values behind “we the people”. The interest of the people lies at the heart of the conception rule of law. Until now, I have mentioned the terms “rule of law” and “people” enough times that it would be easy to decipher that it is all about the people and their liberties. It could be safely said that the presence of tyranny and oppression articulates the absence of the conception of rule of law.

In this very piece of writing, I would be analyzing the working of rule of law in the U.K. & India and how a country with Parliamentary Sovereignty and one with Constitution Sovereignty are upholding the significance and the merits of the rule of law. And that how far Judiciary has been effective in bringing practicality to the tenets of the ROL & protecting the liberties of people and fostering the core idea behind “we the people”.

II. RULE OF LAW: UNITED KINGDOM

As Lord Tom Bingham opines², the concept of ROL was adhered to in the United Kingdom for the most part of it. And the very reason for it could be said that the concept of ROL has natively originated within the United Kingdom over the centuries to overcome tyrannies and oppression. Given the absence of a written constitution, people often confused Parliamentary Sovereignty as the ultimate authority to lay down the functions and substance of the constitution of U.K. People dubiously recognize the Sovereignty of the U.K. to be the law as enacted by the Queen in Parliament. But it does have to observe certain inherent principles as set out by the common law system and its historical commitment to the notion of constitutionalism. Therefore, concluding that Parliamentary Sovereignty as absolute power would be a mere exaggeration.

(A) Genesis

Magna Carta was issued in June 1215 and was the first document to put into writing the principle that the king and his government was not above the law. It sought to prevent the king from exploiting his power, and placed limits of royal authority by establishing law as a power in itself.³

In 1215, the rule of law was in the embryo when King John for the first time made an agreement with the barons. This agreement became the law and a tool for public administration giving space to rights and liberties. The document was the charter of liberties which was sealed by King Johns on 15 July, 1215. It had a short life given that it was annulled by the Church and

² Tom Bingham, “*The Rule of Law*”, Harlow, England, Penguin Books, 2011.

³ Parliament of U.K., <https://www.parliament.uk/about/living-heritage/evolutionofparliament/originsofparliament/birthofparliament/overview/magnacarta> . (last visited on Jan 20, 2023)

subsequently, it was repudiated by King John himself. It could be said that the document was significant with respect to the liberties it granted to the Church rather than to those barons. Later on, in 1217, the Charter of Liberties was reissued by Henry III but with fewer clauses. This Charter of Liberties later came to be known as Magna Carta- the big charter. It was reissued 38 times. It did not bring into light anything new but declared the existing rules, for this very reason it could not become a law of the land. But it successfully laid down the values which were later regarded as the Rule of Law.⁴ These values were:

- Implementation of basic law;
- Rule by law is supreme;
- Equal application of laws;
- Promotion of individual liberties;
- No taxation without representation;
- Empowerment of the Judiciary.

The Charter in itself was significant given that it articulated a clear rejection of tyranny flowing from the royal power and an assertion that the King must also be subject to the law. Basically, this document was an agitated voice against the cliched notion of ‘the king can do no wrong. Only if we envision ourselves in the thirteenth century, we would be able to appreciate the fact that how big a step this had been.

Then transpired the episode of retaining absolute power by Stuart King against the then Lord Chief Justice Sir Edward Coke. The absolute power of James I was unrecognized by the then Royal Courts. Under the auspices of Sir Edward Coke, the Courts started taking cognizance of matters of prerogative powers. Over a battle between the Court and the Royal Power, every judge of the Royal Court humbled themselves and promised to submit themselves to the desires of the King but J. Coke stood firm alone against the King and was hence dismissed from his position of Chief Justiceship. In reply to this episode, when the Parliament became ascendant, they ensured the independence of the judges by securing their tenure.

III. DICEY CAN BE CREDITED FOR THE TERM “RULE OF LAW” BUT NOT FOR THE CONCEPT BEHIND IT

No doubt, Dicey has coined this term but his idea of ROL was limited to three broad principles which were pre-existing. The conceptual aspect behind the rule of law had been existing even

⁴ Britannica, <https://www.britannica.com/topic/Magna-Carta> (last visited on Jan 20, 2023)

before he was born. He came, coined a new term, and attributed 3 principles to it. The very values of the ROL can be matched back to the saying of Aristotle, “*it is better for the law to rule than one of the citizens, so even the guardians of the laws are obeying the laws*”. Apart from this, the greater Charter of Liberties since 1217 talks about the supremacy of law and individual liberties.

So, A.V. Dicey could be given the credit for devising the term ‘*Rule of Law*’ but not the concept behind it. Let's have a look at how Dicey has re-articulated the values and beliefs which were held by Aristotle and the Greater Charter of Liberties. Dicey gave three meanings to the ROL as follows⁵:

1. That one must be penalized for proven charges of breach of law by a tribunal constituting independent and impartial judges.
2. That no one is higher than the law. Every man, is the subject of the same ordinary law and is liable to be prosecuted before ordinary tribunals. The reason for giving this meaning to rule of law is that he derided the Droit Administratif concept of France where the government officials were given discretionary powers and in case of dispute between a private individual and a public official, it was tried by special administrative courts. This very idea of unequal application of law and unequal treatment was taken to be antithetical to the concept of ROL by Dicey.
3. That there should be a predominance of legal spirit. Dicey considered it to be a special feature of English Institutions.

Dicey here cannot be utterly discredited for bringing the rule of law conceptually. The reason is that he has been quoted by almost every jurist, judge, and scholar but very few people knew about the ROL conception of Aristotle and the episode of Magna Carta from where Dicey is coming. Credit for publicly articulating the concepts of Aristotle and the Magna Carta, could be given absolute to Dicey.

IV. FORMAL VERSUS SUBSTANTIVE CONCEPTIONS OF ROL

The *Substantive Conception* is concerned with the substance of the law that the laws must be in consonance with the equality principle, natural justice principles & international norms. It also entails the absence of arbitrariness in the law. To locate the substantive conception, one must analyze to which extent the legal system upholds fundamental freedoms and individual liberties. Therefore, it could be said that the underlying values of the Substantive law are more significant

⁵ Tom Bingham, “*The Rule of Law*”, Harlow, England, Penguin Books, 2011.

than the ROL.

Comparatively, the *Formal conception of rule of law* emphasizes the procedural aspect of a legal system. That law must be supreme, and the same must be publicly promulgated with equal application and adjudication by the independent judiciary. It further entails the separation of powers and fairness in the adjudicative processes. Basically, it focuses on the way in which the law is being enforced. Going further into the *Formal conception of rule of law*, it has thin and thick concept of formalism.

Thick Formalism could be termed as the criteria for Formal rule of law, establishing the basic qualities that it entails to be followed by the rule of law. Thus, emphasizing the way in which laws are enacted and administered. On the other hand, *Thin Formalism* deals with the protection of rule of law. It keeps a check on the activities of the executive and makes sure that the judiciary is safeguarding the fundamental freedoms and liberties of individuals from the arbitrary actions of the executive and that the parliament is carrying a lawful authority and a legitimate state aim while restricting individual liberties. The extent to which thin formalism goes to safeguard fundamental and civil freedoms is dependent upon the degree of requiring legitimate authority to safeguard rights. If the legitimate authority could be easily procured, then it barely meddles in the way in which Parliament is restricting the rights and liberties. The distinction between both these formal conceptions of ROL accentuates the importance, for the legal system, of ROL as maintained by the judiciary via safeguarding civil liberties and fundamental freedoms. As Dyzenhaus⁶ observes in his book, the failure to uphold thin formalism is much more dangerous than the failure of upholding the rule of law.

V. PARLIAMENTARY SOVEREIGNTY

To probe into the development of legal system of a particular nation, one should primarily look at the rule of recognition of that very system. Rule of the recognition means examining the disparities of the legal system from other existing forms of social norms. Basically, a legal regime presupposes the existence of rule of recognition to further lay down the primary legal rules such as precedents, legal enactments, and enforcement machinery. Hart noted the relationship between a rule of recognition and a constitution as the ultimate legal rule of a legal system⁷. We feel ourselves to be governed by the law when we trace back our legal system to a legal source via authority from exercising a mere political power against the subject via sanctions. A constitution is a legitimate authority, whether written or unwritten, which lays

⁶D. Dyzenhaus, *The Constitution of law: Legality in Times of Emergency*, Cambridge University Press, 2006.

⁷ HLA Hart, *The Concept of Law*, Oxford University Press, 1961.

down the basic framework of granting institutional powers, formal processes, and fundamental freedoms. The existence of the values of ROL can be gauged through the operations & actions of government officials. Parliamentary Sovereignty of U.K. works as a rule of recognition where in the absence of any legal constraints, the Parliament legislates. Parliamentary Sovereignty lays down the functions and substance of the constitution. The Constitution of the United Kingdom, runs through a combination of statutes, customs, functions of the institutions, constitutional conventions, and of course, judicial decisions. Parliamentary Sovereignty alone cannot be recognized under the rule of recognition, there also exists a common law that has been functioning for a long time. The common law has been in U.K., an independent source of legal principles also ensures that the United Kingdom's government does not work in disregarding of its longstanding commitment to the notion of rule of law.

The U.K. is essentially an evolved state and thus, has evolved through constitutional arrangements over time. The written constitution generally dictates the actions of government and its officials but in the case of unwritten constitutions as in the case of the U.K., the action & functions performed by the officials and the close nexus between the organ of government & their operations create the essence of the constitution. No doubt without a consolidated written constitution, its content remains variable as delineated above.

People who were viewing parliamentary supremacy in the United Kingdom as absolute and used, to sum up Parliamentary Sovereignty as, "what the Queen in Parliament enacts is law....", holds no longer good. Today, the Queen is bound to assent to the legislation laid before her and she also no longer holds the power to fire or hire Her Majesty's Ministers and Her Majesty's Judges. This, in 1215, was totally different where the powers of the executive, legislature, & judiciary were concentrated in the royal power. This was the drastic change that Magna Carta intended to inflict. Also, Parliamentary Sovereignty cannot be said to be supreme given its long-standing commitment to constitutionalism and the limits to lawful authority to restrict fundamental freedoms and civil liberties.

VI. ROLE OF THE JUDICIARY IN UPHOLDING THE VALUES OF ROL

The very values behind the ROL came to be formed given the differences that arose between those who were being ruled and the ones who ruled. This situation entails the entry of some neutral third party that could strike a balance between the differences that arose between them thus, the role of the judiciary as a neutral person was required to keep a check upon the exercise of discretionary and arbitrary power and to uphold individual liberties. The role of the judiciary has grown massively over time and courts started to be regarded as the guardians of fundamental

rights thereby, keeping alive the values of the ROL. Dicey also favors emphasizing the role of the judiciary in safeguarding the merits of ROL by protecting the liberties and rights of the people by interpreting the statutes in such a way as to prevent any transgression on the part of the Parliament onto liberties of people. This task by the judiciary ultimately helps to maintain the balance between

Parliamentary Sovereignty and the ROL and simultaneously enlarges the scope of people's personal autonomy.

The primary idea was that if the governance is by law, not by one of the citizens then it requires unbiased and equal application of laws by an independent judiciary. Governance under the rule of law entails both institutional & decisional independence. The judiciary is not the sole component of ROL. Even Justice O'Connor terms the rule of law as the foundation of the rule of law⁸.

The significance of the ROL is visible in the recent decisions of the House of Lords and the Supreme Court. The decision in *Council of Civil Service Unions v. Minister for the Civil Service*⁹, signifies the capacity the courts to take cognizance of the prerogative powers within its power of judicial review. Thus, empowering the judiciary to adjudicate with respect to the matter of prerogative powers lest they are exercised arbitrarily.

In *Walumba Lumba v. Secretary of the State for the Home Department*¹⁰, where the Supreme Court came to the finding that it is unlawful for the Minister to apply the policy differently from what it actually was. Thus, upholding the equal and unbiased application of legal rules and policies.

In *Her Majesty's Treasury v. Mohammed Jabar Ahmed and Others*¹¹, The finding, in this case, signifies the need for judicial control to uphold the rule of law. In the words of Lord Hope: "If the rule of law is to mean anything, decisions as to what is necessary or expedient in this context cannot be left to the uncontrolled judgment of the executive.....Conferring an unlimited discretion on the executive as to make those resolutions, which it has hand in making, is to be implemented seem to me to be wholly unacceptable. It conflicts with the basic rules that lie at the heart of democracy".

⁸ Sandra Day O'Connor, *Vindicating the Rule of Law: The Role of the Judiciary*, Chinese Journal of International Law, 2003.

⁹ *Council of Civil Service Unions v. Minister for the Civil Service*, [1984] 3 All ER 935.

¹⁰ *Walumba Lumba v. Secretary of the State for the Home Department*, [2011] UKSC 12; [2011] 4 All ER 1.

¹¹ *Her Majesty's Treasury v. Mohammed Jabar Ahmed and Others*, [2010] UKSC 2; [2010] 2 AC 534.

VII. RULE OF LAW: INDIA

All the principles set out by the ROL may or may not be present robustly in society but that does not trigger a conclusion that ROL is absent in such a situation. The design of the ROL is so wide that it adapts according to the socio-cultural aspect of a given nation and carves out a new legal regime aimed to cater to the socio-cultural & political needs of a given society. In India, the ROL came into existence as a result of the establishment of a written constitution to adhere to and judicial activism on the part of the judiciary. The merit does not lie in utter adherence to the principles laid down by the ROL but it lies in the maximum compliance to the values ROL holds. Perfect compliance to these principles cannot be achieved as ROL keeps on rolling and keeps on garbing new meanings and forming several corollaries. A nation can look up to ROL for guidance. The formation of ROL in India is different from the United Kingdom given its society, culture & history of it. India has a written constitution, where the people have conferred on themselves the *Rule of Law* under the garb of the Constitution. Given the unwritten constitution of the United Kingdom, whereas India has a written one, one could conclude that the concept of ROL is not merely an abstract concept in India as compared to the United Kingdom. India has concretized the very core principle of equality of law under Article 14 of its constitution.

(A) Genesis

During British India, the law at that time speaks of the language which was intended to provide legitimacy to the rule of Britishers in India. The British emphasised the significance of “Rule by law” over “Rule by men” and thus, represented ROL as their inherent and distinguished feature. The ROL intended to legitimize the lawful authority over the ‘Oriental Despotism’. After the Britishers legitimized their Sovereignty over India, they boasted about how they have succeeded in establishing a rule of law given the habits of society and divergent cultures of India. Sir James Fitzjames Stephen successfully identified the role of ROL in defining the nexus between authority & morality in India. The rule by law very much makes those in authority accountable for their actions and also makes the operation much more transparent. Sir James Stephen recognizes the Indian Penal Code as laid down by Lord Macaulay as a distinguished one given its straightforwardness. Such legislative works accentuated the role of the “rule of law” in the working of Britishers’ rule in India.

In 1947, when the partition of India took place, it created quite a social upheaval in the society which furnished a historic moment for the formation of the constitution of India. To pacify this holocaust, a framework was laid down to bring security and order in society and this ultimately

turned out to be a significant resource of ROL in India. The constitution of India has almost incorporated every aspect of the ROL in itself thus, conferring a distinctiveness to the Indian ROL through its constraint & facilitative languages.

Even Gandhi favors the existence of ROL as he talks about it in *Hind Swaraj*. While talking about India's colonial domination, he too realized that the notion of ROL is very dear to it. Endorsing the importance of the ROL, he conveys that liberties are no license to do anything at will rather it signifies voluntary restraint.

VIII. THIN AND THICK NOTION OF ROL

The thin conception of ROL set forth certain procedural constraints on the exercise of legitimate authority thus, attaching accountability to the activities performed by them. Whereas thick conception of ROL provides for certain goals which should be achieved in adherence to ROL such as “good”, “just” & “right”. The constitution of India has endorsed practicality to these constraints and goals by strengthening the aspect of governance, justice & rights.¹²

IX. CONSTRAINT YET FACILITATIVE LANGUAGE

Upendra Baxi in his Article¹³ presents ROL in India as both a sword and a shield. By drawing a distinction between these 2 languages he tries to mark out the aspects which are addressed by the ROL and the ones which remain unaddressed. Constraint language is very much similar to the thin conception of ROL. wherein it provides for certain regulations to be followed by the Sovereign and also closely examines the conduct of the state through its activities.

Constraint language addresses the following aspect of a legal regime:

- Safeguarding the Judiciary from the influence of other organs;
- Limited delegation of legislative power;
- Doctrine of judicial review;
- Accountability and transparency in the governance;
- Protection of fundamental freedoms.

Whereas facilitative language burdens the state with certain positive duties, ROL remains silent on how to achieve them. It very much conforms to the idea of a thick conception of ROL. Following are certain aspects that remain unaddressed in view of Upendra Baxi:

¹² Upendra Baxi, “The Rule of Law in India”, Vol. 4 (Issues 6), *Sur- International Journal on Human Rights* pp. 7-26, (2007).

¹³ *Ibid.*

- A criteria for the voting system and delimitation of constituencies;
- Standards of state funding for elections;
- Reservation and participation;
- Form of political rule;
- Obligation to uplift historically downtrodden people.

X. CONSTITUTIONAL SOVEREIGNTY

After Independence, India had to establish its own rule of law to cater to the grievances of the people and to pacify the prevailing social upheaval. It took the Constituent assembly almost 3 years to prepare the final draft of the constitution of India which ultimately brought the underlying values of the concept of ROL to India. Our constitution is very much akin to that of the U.S. constitution given that the drafters looked up to the U.S. constitution while laying down the fundamental rights and other provisions in the constitution. India has Constitutional Sovereignty whereby law is treated as supreme and no one is above law. In case of any contradiction between an ordinary law and the constitution then the constitution triumphs. The question of contradiction does not arise given that the constitution acts as a testing parameter to other ordinary legislations. This is the kind of supremacy the drafters have given to it. In India, the Parliamentary Supremacy also adheres to the Constitution. India is a constituted state, where the written constitution guides the working and operation of the government and its officials. If we view our constitution from the perspective of Prof. Upendra Baxi, it encompasses both constraint and facilitative language wherein the constitution provides for various restraints over the organs of the state and also lays down certain Directive Principles governing the acts of the state.

The biggest example of the existence of ROL in the constitution is very much palpable in Article 14 of the Constitution in India where it provides for the principle of equality. Now, if we look at the wording of Article 14, it imposes both a negative and a positive duty on the state to provide for equality before the law on hand and equal protection of laws and thus, eliminating arbitrariness. But at the same time, the constitution also confers a special status and immunity to its officials and Dicey was very much against this idea when he derided the concept of *Droit Administratif*. But the fact is that for better governance, the government cannot be placed on the same footing as citizens in all respects.

The text of the constitution provides for the establishment of institutions which further provided for the establishment of a legal system through which the rule of recognition is constructed. It

is certain that constitution and rule of recognition are intimately related but they cannot be coextensive absolutely, the reason being that when the constitution defines the fundamental freedoms it acts as a part of rule of recognition because, for a legal rule to be valid, it must conform to the principles of the constitution.

The constitution lays down the framework of institutional dynamics via government administration wherein the courts have the capacity to invalidate any of the legislation which is found antithetical to the being of the constitution. So, it can be safely concluded that the action and operation of courts help in locating rule of recognition for their legal system. The constitution can be determined by how the officials of a system behave.

The constitution provides for three organs and also entails the separation of power to facilitate their operation free from any influence. The constitution declares itself to be the supreme and restricts the power of legislature through the doctrine of Basic Structure. This feature ultimately achieves the underlying notion of ROL that even the king must be subjected to a similar law as the baron, thereby treating the law as the highest authority and suppressing tyrannies and oppression.

XI. ROLE OF JUDICIARY IN ESTABLISHING ROL

The Supreme Court is a forum with unmatched jurisdiction and authority. It is the harbinger of social, economic, and political justice. From day one, it has been burdened with great responsibilities to safeguard the underlying notion behind “we the people.....”, where the ultimate sovereignty lies with people making people their masters of fate. The law laid down by the Supreme Court is binding on all the courts and is to be followed throughout the territory and in making it happen the state has the duty to aid the apex court in the enforcement of the law laid down by it. The Supreme Court is the ultimate guardian of the constitution and has been in the practice of protecting it since it came into existence through judicial review, it also formulated the doctrine of judicial review to keep safe the core ideas and principles of the constitution. Justice P.N. Bhagwati devised the concept of Public Interest Litigation but Prof. Upendra Baxi justifies it more as Social Action Litigation. It is a model devised to address the violation of fundamental rights. Justice Bhagwati has depicted PIL as a means to tackle “state repression, governmental lawlessness, administrative deviance and exploitation of disadvantaged groups and denial to them of their rights and entitlement.”¹⁴ For instance, in matters of sexual harassment, the Apex Court taking over the legislative function laid down the

14 P.N. Bhagwati, *Judicial Activism and Public Interest Litigation*, 23 *COLLUM. J. TRANSNAT'L.* 561, 569 (1985).

anti-harassment guidelines without further waiting for the action of the part of Parliament.¹⁵ Apart from the PILs, the judiciary of India has played a massive role in perfectly shaping the rule of law in India as it exists today. The Supreme Court has been interpreting the constitution in a way that benefits society and brings justice to the common people. In particular, I would like to mention Article 21, which has been given the vast interpretation to include every right that a human may need to lead a prosperous life despite the limited wording of Article 21. The tussle for power between the judiciary and the parliament has resulted in the refinement of our constitution and it has also helped India to extensively adhere to the principles of ROL. To say that India has perfectly adapted to the ROL values would be an overstatement, the idea of ROL varies from time to time and it keeps on evolving to cater to the needs of the people and thus, for this very reason perfect compliance to ROL any nation can never be claimed.

XII. CONCLUSION

The Rule of Law literally favors the idea of government by law rather than government by men, this idea was very much the leitmotif to the evolution of the legal system of both U.K. and India. But feasibly, the rule of law cannot be kept isolated from the rule of man because a man's intervention is necessary to give practicality to the rule of law. The rule of law may vary in procedure across different nations considering the socio-cultural aspect of a given nation but the core idea of enlarging the liberties and freeing people from tyranny and oppression remains the same throughout the globe. Although the U.K. does have a scattered constitution, it has also left no stone unturned to uphold the liberties and freedoms of people like the nations with written constitutions. The U.K. has been an evolved state whereas India has been a constituted one, so the procedure of evolution of ROL and the time frame for evolution of ROL in both nations had to be different. Both these have their commitments to Human rights at national and international levels. Nevertheless, these nations cannot be said to be the finished product of ROL, they are still on their way to progress and refinement. The concept of ROL is worth pursuing. All in all, the rule of law may vary in procedure but conceptually it remains same.

¹⁵ See *Visaka v. Rajasthan*, AIR 1997 S.C. 3011 (India).