



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

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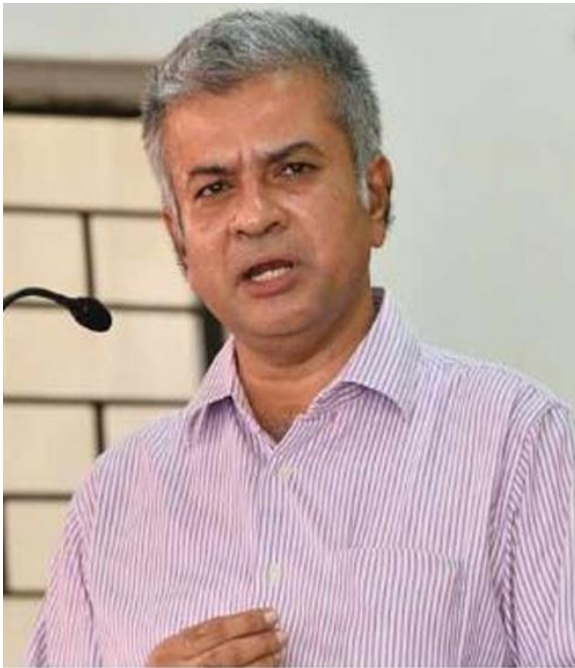
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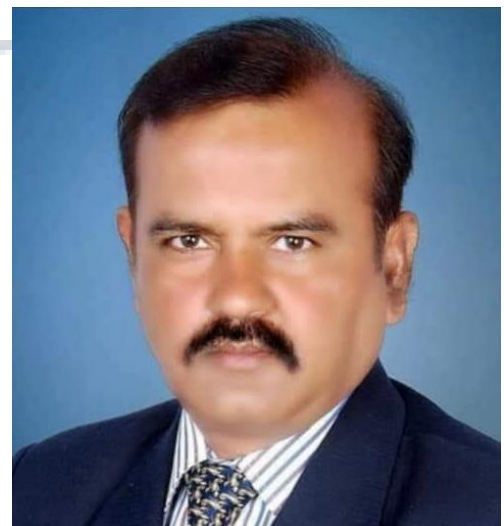


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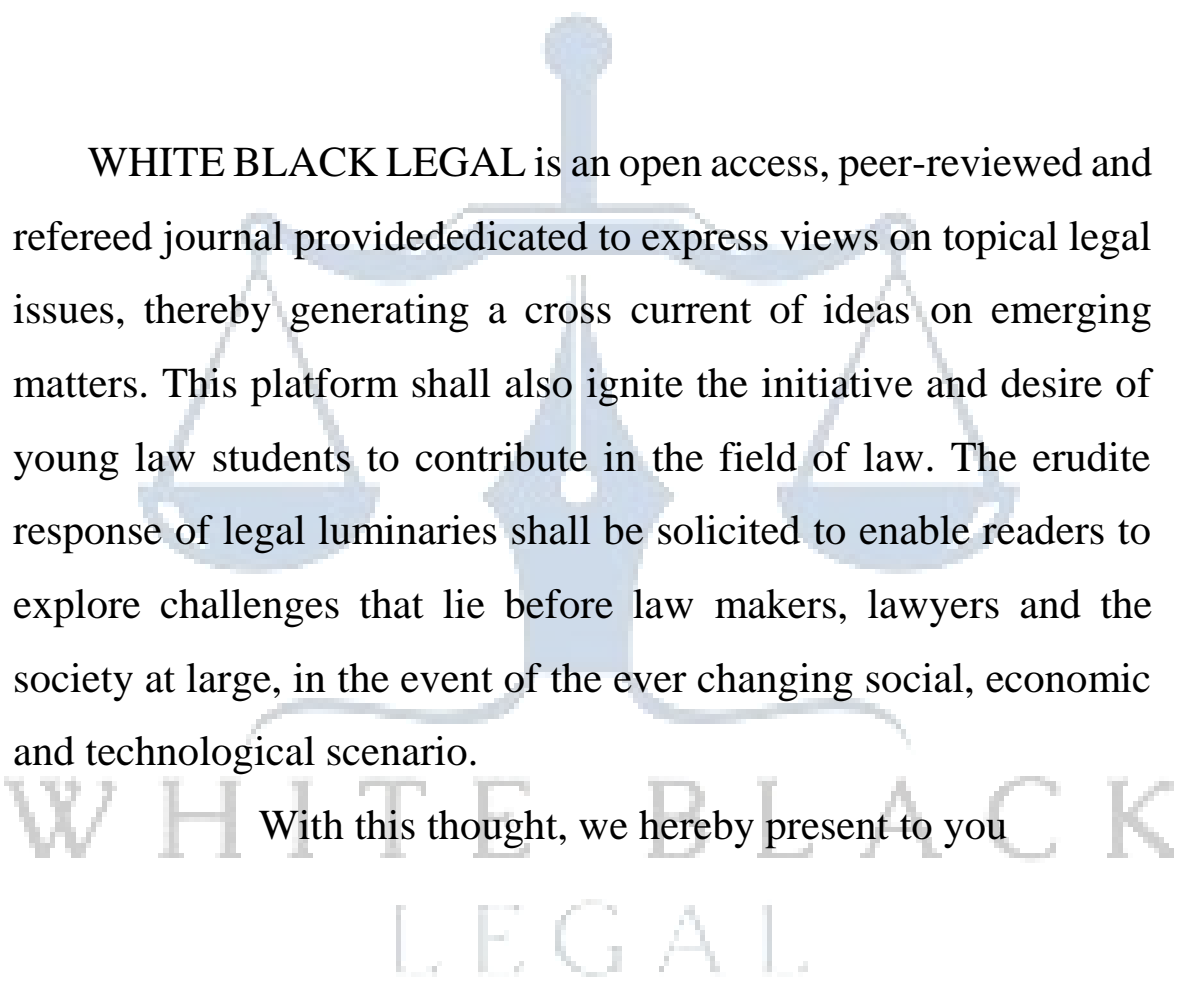


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ANALYSING THE CONCEPT OF LEGAL AUTHORITY: SOURCES AND LIMITS OF LEGAL POWER

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ABSTRACT:

The concept of legal authority reflects the scope and limits of legal power within the legal framework. Legal authority defines the boundaries within which individuals, governmental bodies and institutions may exercise their duties and powers. This paper delves into the nuanced aspects of legal authority, scrutinizing its origins from constitutional mandates, legislative enactments, judicial precedents, executive regulations, etc. It also analyzes the constraints and limitations assessed on these authorities similar as constitution constraints, judicial review, etc. By delineating the boundaries of legal power, this study underscores the significance of adhering to specified limits to uphold the supremacy of law, cover individual freedoms, and ensure institutional responsibility. Compliance with these limits is imperative for maintaining the integrity of legal systems, fostering respect for the rule of law, and promoting transparency and responsibility within institutions of governance.

KEYWORDS: Legal authority, legal power, constitution, limits, delegation of power, sources

1. INTRODUCTION:

An authority is a body or an individual, refers to the power or right to give orders, make decisions, and enforce obedience. In various aspects, An Authority plays a crucial role in establishing order, making decisions, and guiding behavior within societies, organizations, and relationships. In the legal context, Legal authority typically derives from laws, statutes, constitutions, or other legal sources that define the scope and limits of such authority.

Legal authority is essential for maintaining the theory and the concept of rule of law ensuring the protection of rights of the individual, and upholding the principles of justice and fairness

within a legal system. It provides the basis for the functioning of governments, the resolution of disputes, and the protection of societal order.

This paper, deals with the various concepts of legal authority including its types, scope, powers and the ambit of such powers. From the various centuries, many Authorities came in power via elections and via many government recruitments but initially they failed to describe their own ambit of their jurisdiction, which is not only becoming the crucial subject of law but also becoming an unending war. Although, making the laws, rules and sanctions is a crucial subject to maintain the dignity of society and other disciplinary norms and somewhere there is a necessity of today's society to follow those rules, which were carried out since an era but the bar upon those authorities, is also a subject matter, which should be studied herewith.

2. SOURCES OF LEGAL POWER:

The concept of authority came into existence through several sources depending on circumstances and its nature, these are some common sources of legal authority, which are as follows:

2.1. Constitutional Authority:

Constitutional law is the supreme law of land, as per the landmark judgment of *Keshvananda Bharti v. State of Kerala* (1973)¹, highlighted the Supremacy of this law. Constitutional authority designates to the powers and limitations granted to the government and its branches i.e. legislature, executive and judiciary by the constitution. It outlines the configuration of the government, the distribution of powers², and the rights of the citizens. Constitutional authority is vital to the functioning of a legal and political system, providing the framework for governance and the protection of individual liberties³.

2.2. Statutory Authority:

Anybody, whether to exercise the powers given by and created by legislative, executive or judicial, under, an Act of Parliament is termed as Statutory Authority⁴. These laws, known as statutes, provide the basis for governance and regulation within a society. However, the

¹ *Kesavananda Bharati v State of Kerala* [1973] INSC 167, (1973) 4 SCC 225

² Constitution of India 1950, art 50

³ *Maneka Gandhi v. Union of India* [1978] 2 SCR 621

⁴ 'Statutory Authority' (Oxford University Press, 2010)

interpretation and application of statutes often come under scrutiny in legal disputes, leading to landmark cases that shape the understanding of statutory authority. One such case is *Roe v. Wade* (1973)⁵, which addressed the legality of state laws restricting access to abortion. Here, the Supreme Court's ruling emphasized the essential role of statutory authority in defining individual rights and governmental regulation.

2.3. Common law Authority:

Common law also known as body of precedents, where judges have authority to make laws in the absence of written laws. Precedent constitutes the body of legal principles derived from prior judicial decisions and serves as binding authority for future cases. With this comes “doctrine of stare decisis”, denotes “to stand by what has been decided” which enables judges follow the legal principles already established in earlier cases. For example, in the case of *Kesavananda Bharati*, the principle of doctrine of basic structure was established within the framework of the Indian Constitution. This principle mentioned a important benchmark that various fundamental features of the Indian Constitution are beyond to the amending power of the legislature, safeguarding the core values and principles of the Constitution. This doctrine serves as a precedent in subsequent matters, such as *Indira Gandhi v Raj Narayan*⁶, *Minerva Mills*⁷ & other cases where the facts of the case & the circumstances are subsequently similar⁸.

2.4. Delegated Authority:

Delegated authority refers to transferring power by higher authorities to subordinate entities. So there can be many ways in which this excess of power can be delighted to subsidiary rank people or to an Executive. In simple words, when Legislature bestows the law-making power on some other body, then the legislative power is said to be delegated and this is known as delegated legislation⁹. *Queen v. Burah*¹⁰ established important precedents regarding the delegation of legislative powers and the authority of governor-general councils. Delegation allows for more efficient operations and better use of expertise, but it also requires clear guidelines and accountability to ensure tasks are carried out properly as defined in *Raj Narain Singh v. Chairman, Patna Administration Committee*¹¹ case.

⁵ *Roe v Wade* [1973] USSC 97

⁶ *Indira Gandhi v Raj Narain* [1975] 2 SCR 159

⁷ *Minerva Mills Ltd. & Ors. v Union of India & Ors.* (1980) 3 SCC 625

⁸ Vineeta@22, "Judicial Precedents in India" (LegalServiceIndia.com)

⁹ Ishita Chandra, "Legislation as a Source of Law" (Manupatra)

¹⁰ *Queen v Burah* [1878] UKPC 47

¹¹ *Raj Narain Singh v Chairman, Patna Administration Committee* [1954] AIR Pat 17

Understanding the origins of legal authority is crucial to grasping the foundation of power within a legal framework and effectively interpreting and implementing laws. Each origin plays a role in shaping the structure of laws and governance, influencing rights, responsibilities, and the execution of justice in society, with individuals being responsible for adherence to these laws.

3. SCOPE OF LEGAL POWER: PRIVILEGES, RIGHTS & DUTIES:

Legal Powers are the power which is granted by the law and is basically vested in the authorities of a country, which are further empowered by the statutes such as- constitution. In India, the scope of legal powers, are derived from the “doctrine of separation of powers”. Art. 50 of the constitution of India, mandate the division of powers between 3 constitutional bodies, which not only play a vital role in law making process but also aids in regulation and imposition in society.

Indian constitution empowers legislature to make the laws for the whole or any part of territory of India¹². Legislative authority is a deliberative authority, which creates law for political entities like nations, states, cities essential for democratic governance. These privileges are made within the ambit of the constitutional limits and the objects of the newly formed are kept parallel to Indian constitution at the time of framing. The legislative authority is divided between central and state government, apart from lawmaking object, the legislative authority has a vital ambit of jurisdiction in which, the authority is empowered with the powers including the amendment of the constitution , regulation of financial powers, control over subordinate legislation, to impose reasonable restrictions on certain grounds¹³, etc.

These powers are authorized to the various authorities and along with these powers, there are certain duties and privileges provided to these authorities. According to well - quoted phrase that – ***“with great power comes great responsibility”***.

These laws are furthermore expressed and executed by the executive authority of the state. However executive authority not always requires legislative sanction for its functions, with change in time the power and functions of executive also changes¹⁴. In India, executive powers of union vested under the President, Vice-President, Prime Minister & the other Ministers of

¹² Constitution of India 1950, art 253

¹³ *Indian Express Newspapers (Bombay) Pvt. Ltd. v Union of India* [1985] 1 SCC 641

¹⁴ *Rai Sahib Ram Jawaya Kapur and Ors v State of Punjab* [1955] AIR SC 549

Council. There are several other bodies which safeguards the nation, they are:

3.1. Civil Services:

The government employees are the employees, who work in various roles to implement laws and deliver the services of such laws to the public, which are earlier made by the legislative authority. This authority falls under the executive organ of the Indian constitution. The government has constituted the commission upon state and central levels (UPSC & SPSC) to regulate and to supervise the value of laws in society. Part XIV of the Indian Constitution contains various services under the union and the states of India. This provision not only recruits the civil servants but also provides them Job security, competitive salaries and benefits, professional development, work life balance legal protection etc.

3.2. Law Enforcing Authority:

Law enforcing authority i.e. Police forces, are the common type of law enforcing agency at the local level. These agencies work to prevent illegal activities, protect national security, and maintain order within their respective areas of jurisdiction. Law enforcement agencies play a vital role in society by enforcing laws, investigating crimes, protecting communities, and upholding the rule of law. Art. 312 of Indian constitution mandate a state to create a service regarding police and give them authority to deal with the general cause of society at large¹⁵.

3.3. Military:

The military denotes to the armed forces of a country which includes the army, navy, air force, and sometimes other specialized branches. These forces are responsible for national defence, protecting the country's interests, and supporting national security objectives.

Judicial authority on the other hand, interprets and apply the law, adjudicate legal matters, resolve disputes and administer justice. The provision of judicial authority is primarily addressed in several articles of the Constitution of India, which pertain to the organization, composition, and powers of the Supreme Court of India¹⁶, as well as which deal with the High Courts and their jurisdiction¹⁷. These articles delineate the structure, functions, and powers of the judiciary within the Indian constitutional framework. Judicial authority ensures maintaining

¹⁵ Constitution of India 1950, art 312

¹⁶ Constitution of India 1950, art 124- 147

¹⁷ Constitution of India, art 214-237

governmental accountability and upholding the principles of equality, justice and rule of law as specifically highlighted in the case of *Indira Gandhi v. Raj Narain* (1975)¹⁸.

Therefore, these authorities are not only empowered by the vast powers, but they have their enough jurisdiction to entertain the privileges for the public welfare.

4. LIMITS OF LEGAL POWER:

An authority is authorized by the powers with certain reasonable restrictions, these limitations not only protect the right of common people but also sets a barrier towards the privileges and rights, which have been provided to the competent authorities with respect to enactment or enforcement of law. While legal authorities are intended to uphold the rule of law and protect individual rights, they can sometimes fall short due to factors like corruption, nepotism, and political interference. When legal authorities misuse their powers for personal gain or political agendas then it also undermines the natural principles of justice, fairness, & accountability that are strictly fundamental to the legal system.

The various key limitations have kept in mind while awarding privileges to these authorities, they are-

4.1. Constitutional Constraints:

Legal authorities are bound by constitutional checks, mandating respect for fundamental rights, adherence to separation of powers, and due process. This ensures fairness, equity, and the protection of individual liberties within the legal system, preventing arbitrary exercises of authority and promoting accountability.

In the case of *Raja kannu v. Tamil Nadu*¹⁹, custodial death was resulted from actions by a police officer of Tamil Nadu State, the false arrest and unlawful detention were carried out by police officer and later, the arrested person brutally harmed by them resulted in death. The Apex court inquired the custodial death and in the light of constitution, recited the judgment that, police can't overuse their jurisdiction, privileges and powers, the police officer was sentenced for 14 year of imprisonment.

¹⁸ *Indira Gandhi v Raj Narain* [1975] 2 SCR 275

¹⁹ *Raja Kannu v Tamil Nadu* [2013] 3 SCC 97

Furthermore, in the matter of *Khatri v. State of Bihar*²⁰, it was held that, no one can be deprived from the fundamental rights, which are empowered by the constitution even an offender who is imprisoned for any act. In this case, the petitioner A.K. Roy Khatri filed a writ petition, in which he raised several inhuman and overcrowding activities in lock-ups. He also claimed that such inhuman activities which was followed by the state government, are posing threat to the health. The Apex court noted the issues and directed the state government to procure the health and sanitation in lock-ups.

The above mentioned judgments not only drawn a balance between fundamental rights and obligations but these judgments made a thick layer between the use and overuse of the powers guaranteed by the supreme authority of the nation i.e. constitution.

4.2. Judicial Review:

Courts have a power of judicial review which assess the legality and constitutionality of rules which are adhered by the authorities. When any law comes under the enforcement then its key principle dwells in welfare of the society and somewhere any lacuna is found under such statutes, then judiciary have the sole right to scrutinize it.

In the case of *Sheela Barse v. Union of India*²¹, it was observed that women convicts were suffering from mistreatment in Bombay central jail, after applying the judicial mind, it was observed that Art. 39A, Art. 14 and Art. 21, should not be violative of individual's fundamental rights. The court mandate surprise visits to police lock-ups by designated judges to ensure compliance and ordered to segregate the female suspects in police lock-ups.

Another case of *Tukaram and Anr. v. state of Maharashtra*²², the Apex court overturned the high court and acquitted the accused. The Apex Court also referred to the Indian Penal Code²³, the court equated that "no marks of injury" were found on victim's body & with this there was "no resistance" on her part and court termed the consensual intercourse. Later, this judgment was protested by many activists and lawyers, but court denied to reverse the judgment and upheld the previous judgment.

²⁰ *Khatri v State of Bihar* [1981] 1 SCR 408

²¹ *Sheela Barse v Union of India* [1986] 3 SCC 596

²² *Tukaram and Anr v State of Maharashtra* [1979] 3 SCC 725

²³ Indian Penal Code, s 375

4.3. Rule of Law:

The rule of Law safeguards the rights of the society by giving them access of equal justice, but fails to apply fairly, leading to unequal access to the legal system for some individuals within society.

In the matter of *Som Raj v. State of Haryana*²⁴, the court emphasized that the absence of arbitrary power is fundamental to the Rule of Law, which forms the cornerstone of the constitutional framework, court also include that everything must be regulated and ruled by the Law.

Similarly, in the case of *State of Bihar v. Sonawati Kumari*²⁵, the court, while pronouncing the judgment, marked that authorities of law must be operated and ruled by Rule of Law. This principle not only applies within the limited ambit but executive government is also bound to obey the rules.

*Union of India v. Raghubir Singh*²⁶, further underscores the principle of rule of law is a considerable benchmark that not only governs the authority but also governs the rule of law of the lives of the citizens and ensures functioning of the state from the decision of the superior courts.

Therefore, in addition to carrying out their constitutionally mandated functions, the judicial system, constitutional bodies, and the rule of law safeguard the fundamental and inherent rights of the populace, therefore safeguarding their lives and liberties.

5. CONCLUSION:

The analysis of legal power shows the relationship between the rights and the limitations that a power has in a legal system. Legal rights have a great influence on the creation and organization of social norms. However, this right is limited by legal obligations, such as the protection of fundamental rights, respect for the separation of powers and the application of due process. In navigating these legal obligations, the judiciary plays an important role in upholding the rule of law, promoting accountability & protecting individual liberties. However,

²⁴ *Som Raj v State of Haryana*, [2009] INSC 945

²⁵ *State of Bihar v Sonawati Kumari* [1954] AIR Pat 232

²⁶ *Union of India v Raghubir Singh* [1989] 2 SCR 754

issues such as corruption, instability and political interference pose serious threats to these principles and undermine public confidence in legal institutions. Addressing these challenges requires strong mechanisms of accountability, transparency and integrity in the legal framework, complemented by the participation of civil society, the media and independent investigative bodies in the legal system. By adhering to established boundaries and upholding the principles of justice and equity, societies can foster a sense of justice, promote respect for human rights, & strengthen the concept of foundations of democratic governance.

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