

standards known as the '*inner morality of law*'. These standards maintain that laws must be '*general, promulgated, prospective, clear, non-contradictory, possible to follow, constant through time and displaying a congruence between official action and declared rules*'. In this way, Fuller focused on '*substantive*' conceptions of the doctrine, namely, whether the law itself is good or bad.

We will now consider theories of the doctrine in relation to the welfare state. Friedrich Hayek detailed the notion of '*market liberalism*', containing that the function of the rule of law was to maintain that '*government, in all its actions is bound by rules fixed and announced beforehand*'<sup>11</sup> and the importance, like that argued by Dicey, of an independent judiciary to challenge the legality of arbitrary, undemocratic proceedings of the executive.<sup>12</sup> Both favoured a government restricted by a structure containing the extent of its legal capacity, and a government having minimal involvement in social institutions such as the provision of health services, thus, leaving room for citizens to exercise self-autonomy.<sup>13</sup> He argued the rule of law is an '*absolute value*' that can only operate when governmental influence in '*social and economic affairs*' is minimal. He favoured predictability, in such a way that citizens are able to foresee the extent of the executive's authority.<sup>14</sup>

Alternatively, Harry Jones contended that governmental powers should play a role in citizens' interests and that Parliament and the courts should loosen boundaries constraining the powers of such, to allow the executive to exercise discretionary powers. Contrasting to Hayek, Jones argued the rule of law is a '*relative political value*' and that, although this function of the doctrine may result in restraints on personal autonomy, it is justified for public interest.<sup>15</sup>

As stated earlier, the rule of law, along with other constitutional principles, is of paramount significance within our unwritten constitution. It endeavours to encapsulate the boundaries in which government bodies can legislate, in order to not be in excess of their authority and thus, in breach of the people's rights. It advocates that, all of the state, including those with legal jurisdiction are accountable under the law.

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<sup>11</sup> Friedrich Hayek, *The road to serfdom* (Routledge Classics, 1944)

<sup>12</sup> Ian Loveland, *Constitutional Law, Administrative Law, and Human Rights* (7<sup>th</sup> edn, Oxford University Press, 2006) ch 3; page 56

<sup>13</sup> Ian Loveland, *Constitutional Law, Administrative Law, and Human Rights* (7<sup>th</sup> edn, Oxford University Press, 2006) ch 3; page 57

<sup>14</sup> *Ibid*

<sup>15</sup> Ian Loveland, *Constitutional Law, Administrative Law, and Human Rights* (7<sup>th</sup> edn, Oxford University Press, 2006) ch 3; page 58