The Efficacy of Grundnorms in Legal Systems of India and UK: A Comparative Study

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ABSTRACT:

Grundnorm means a fundamental norm, rule or order that forms the elementary principle for a legal system. It is the foundational law laid down by those who were a part of the earliest legal systems. A grundnorm should be acceptable and applicable to everyone at every times. The purpose of grundnorm is to ensure the deep rooted values of righteousness and fairness are preserved among the society. Thus, this would result into maintenance of harmonious social arrangement. Grundnorm entails the idea of justice, thereby it earns the ability to decide the soundness of any legislation. Any legislation has to be put under the test of its conformity to the grundnorm in order to determine whether it is a capable of implementation upon the people. If it diverges from the fundamental law then it is open to be challenged for being illegal, unfair, oppressive, arbitrary etc. and hence may be declared unjust. This ultimately may repeal the legislation. Hence the concept of a grundnorm portrays it as the omnipotent law. This paper attempts to determine if constitution of a nation state can be called as its grundnorm. The comparative study of India and UK is done through research so as to find out what is grundnorm in the legal systems of these two nations. Also the paper discusses various instances which aim to check efficacy of the grundnorm in today's advanced world. This paper tries to find out whether the grundnorm which was recognized in ancient times is effective enough in modern legal system as well. After passage of centuries and with changing times does the grundnorm lose their authority or get changed are some of the prime concerns addressed in this paper.

I. STATEMENT OF PROBLEM

Grundnorm means fundamental norm, rule or order that forms the underlying principle for a legal system. It is the source of the validity of positive law upon which validity of all laws is dependent. It is on the top of hierarchy of laws and cannot be repealed. Constitution of a country is the basic, fundamental fabric of its governance through its legal system. It is the touchstone for imparting validity to a law. But it is not mandatory for Constitution of country to judge a law and ensure its validity. India has written constitution while UK does not. Constitution may be a grundnorm in one legal system but not necessarily in another.

II. REVIEW OF LITERATURE

The literature reviewed is as under:

ARTICLES :

1. *Shubham Joshi, "Grundnorm in India- A new perspective", International Journal of Legal Developments & Allied Issues (IJLDAI), The Law Brigade, 2015.*

The author in this article explains the concept of development of grundnorm in accordance with the theory of

Hans Kelsen. The recognition of grundnorms in India are explained with help of case laws. This article helped the researcher to develop a basic understanding of the concept of grundnorm in India.

2. *Subrata Kumar Kundu, "Re-Visiting the Viability of the Rule of Recognition and the Basic Norm in Modern Legal Context",2011. –*

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1866863&rec=1&srcabs=897988&alg=7&pos=3

In this paper, the author describes the concept of grundnorm from the perspective of legal positivism. He brings Kelsen and Hart into picture. The author focuses on rule of recognition which determines the extent of validity of rules of a legal system. This paper has helped the researcher to understand the theories of Kelsen and Hart on validating nature of grundnorm.

3. *Andrei Marmor, the Pure Theory of Law, Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/entries/lawphil-theory/.*

This article explains the Kelsen' Pure theory of Law. The researchers got the basic idea of the doctrine.

4. *DS Yadav, Grundnorm- the search for its content and norms, Lawyersclubindia, http://www.lawyersclubindia.com/articles/GRUNDNORM-SEARCH-FOR-ITS-CONTENT-AND-NORMS-2876.asp.*

This argues the importance of grundnorm and its irrevocability and helped the researcher to establish the supremacy of grundnorm in the research project.

5. *Edwin W. Patterson, Hans Kelsen and his Pure Theory of Law, 40 California L.R. 5, 7 (1952).*

This article helped the researcher to understand the mindset of Kelsen that he gave in the concept of grundnorm in his essay.

6. *Interpreting Kelsen and validating coups, LUMS Law Journal, https://lumsjournal.wordpress.com/2008/08/04/interpreting-kelsen-and-validating-coups/.*

This article helped the researchers to understand how deeply the grundnorm are embedded in the legal systems that only after a revolution that changes the spirit of whole legal system that the grundnorm can be changed.

7. *Mridushi Swaroop, Kelson's theory of grundnorm, manupatra, http://manupatra.com/roundup/330/Articles/Article%201.pdf.*

This article helped the researchers to gain insight grundnorm and kelsen as a positivist. ..

8. *Sheela Rai, Hart's Concept of Law and the Indian Constitution,(2002) 2 SCC (Jour) 1.*

This article helped the researchers by explaining the contribution of Hart in giving theory of grundnorm and thereby its significance in context of Indian Constitution.

9. *T. C. Hopton, Grundnorm and Constitution: Legitimacy of Politics, VOL.24 McGILL LAW JOURNAL.*

This article has provided the information regarding importance of constitution as grundnorm.

10. *Neil Duxbury, The Basic Norm: An Unsolved Murder Mystery, LSE Law, Society and Economy Working Papers (2007)*

This article explains the importance of grundnorm in determining validity of law with the touchstone of grundnorm.

11. *Scott J. Shapiro, WHAT IS THE RULE OF RECOGNITION (AND DOES IT EXIST),Public Law & Legal Theory Research Paper Series Research Paper No. 181.*

This article has contributed to this research paper by enlightening the researchers about rule of recognition concept.

BOOKS:

1. *M.D.A. Freeman, "Lloyd's introduction to jurisprudence" (9th ed. Sweet &Maxwell, 2014).*

This is an outstanding book through which the researchers could understand concepts of grundnorm, the theory of normativism, sanction, with respect to Kelson's "Pure theory of law".

2. *Dr. G.P. Tripathi, "Comparative Jurisprudence"(1st ed. Allahabad Law Agency, 2007).*

This book helped the researchers to understand the legal systems of common law countries. Comparison of constitutional law of India and UK is explained.

3. *Avatar singh & Harpreet kaur, Introduction to Jurisprudence 100-101(3rd ed. 2009).*

This book helped the researchers to understand the theory of grundnorm as proposed by Kelsen in his essay the Pure Theory Of Law.

4. *HLA Hart, THE CONCEPT OF LAW 106 (2nd Ed, 1994).*

This book helped the researchers to understand the take of Hart in determining the importance of grundnorm.

5. *Uta Bindreiter, WHY GRUNDNORM? A TREATISE ON THE IMPLICATIONS OF KELSEN'S DOCTRINE 15 (1st ed. 2003).*

This book is an analysis of Kelsen's explanation of basic norm validating other enactments. It explains the historical significance of grundnorm.

6. *V.D. Mahajan, Jurisprudence and Legal Theory 473 (5th Ed. 1987).*

This book helped the researchers to understand the work of Kelsen, Hart, and doctrine of grundnorm.

OBJECTIVES:

1. To establish and compare the efficacy of grundnorm in legal system of common law countries viz. India and UK.
2. To determine whether the legal torchbearers i.e. constitutions of these countries showcase the existence of grundnorm in totality or partially.
3. To determine grundnorm of those countries which have failed to contemplate grundnorm as a component of their Constitution.

III. HYPOTHESIS

Grundnorm is the fundamental law which ideally portrays the zenith of authoritative ingredient of a legal system which may or may not be the Constitution of the concerned nation. However, it must be noted that grundnorm conducts itself as the document or concept which offers validity and efficacy to be able to judge every other law or imposition on its anvil therefore making it clear that grundnorm may be a statutory document or a concept in general for instance- justice, equity and good conscience which guides the relevance of every single legal element.

IV. RESEARCH QUESTIONS

Q1. Whether the validity of a grundnorm of a legal system can be challenged?

Q2. Whether constitution of India and UK can be regarded as grundnorm of their respective legal systems?

V. METHODOLOGY

The researchers will use the analytical and comparative method of research.

To collect the information for comparison of grundnorm in India and UK for the purpose of reaching to a conclusion for the hypothesis made, majorly, secondary source of research have been referred such as - books, articles (both in printed as well as electronic form) and other e-sources. No empirical research has been carried out and no data collected from empirical research has been used.

VI. THE CONCEPT OF GRUNDNORM IN LEGAL SYSTEM

Grundnorm refers to the source of the validity of positive law.[1]The entire legal system of a country derives its validity from grundnorm which is the initial hypothesis upon which the whole legal system rests. We cannot

[1] UTA BINDREITER, WHY GRUNDNORM? A TREATISE ON THE IMPLICATIONS OF KELSEN'S DAUGRINE 15 (1st ed. 2003).

utilize the legal system or any part of it to justify the grundnorm.[2] Every rule of law derives its efficacy from some other rule standing behind it, but the grundnorm has no rule behind it. The document which embodies the first constitution is the real constitution, only on the condition that, the basic norm is presupposed to be valid. Only upon this presupposition is the declaration of laws to whom the constitution confers norm-creating power.[3] The grundnorm is not created in a legal procedure by a law-creating organ. It is valid because it is presupposed to be valid; and it is presupposed to be valid because without this presupposition, no human act could be interpreted as legal, especially as a norm-creating act.[4] The normative content of this presupposition is what Kelsen has called the basic norm. The basic norm is the content of the presupposition of the legal validity of the (first, historical) constitution of the relevant legal system.[5] The efficacy of a norm can be examined by two components: first, obeisance of the norm and second is the application of sanction when disobedience takes place. If the norm is disobeyed and no sanction is incurred, the norm had lost its efficacy as it is incapable to produce a desired effect when examined.

VII. GRUNDNORM AS PORTRAYED BY HANS KELSEN IN HIS ESSAY- THE PURE THEORY OF LAW

Hans Kelsen (1881- 1973) was an Austrian jurist and legal philosopher. He gave the concept of grundnorm in his essay "the Pure theory of Law". The principle theme of Kelsen in his work- The Pure Theory of Law claims that - a theory of law must deal with law as it is actually laid down and not as it ought to be. On this point he got the title of "positivist".[6] Kelsen is known for the most rigorous development of a 'positivist' theory of law, i.e. one that rigorously excludes from its analysis any ethical, political, or historical considerations, and finds the essence of legal order in the 'black letter' or laid-down law[7]. His "pure law" would exclude the pressures in society and in the legislative or other political processes, which contributed to bring about the enactment of a statute.[8]

The word 'norm' can mean two things- either descriptive regularity (you fit the norm) or prescriptiveness (you must obey the norm). Kelsen will use the word 'norm' in a prescriptive sense. When he uses the word 'normative', he means something that is prescriptive and ought to be done.[9] He categorized norms into legal

[2] V.D.MAHAJAN, JURISPRUDENCE AND LEGAL THEORY 473 (5th ed. 1987).
[3] MICHAEL FREEMAN FBA, LLOYD'S INTRODUCTION TO JURISPRUDENCE 279 (9th ed. 2014).
[4] MICHAEL FREEMAN FBA, LLOYD'S INTRODUCTION TO JURISPRUDENCE 280 (9th ed. 2014).
[5] Andrei Marmor, *The Pure Theory Of Law*, STANFORD ENCYCLOPEDIA OF PHILOSOPHY (Aug. 30, 2019, 08:19 PM), https://plato.stanford.edu/entries/lawphil-theory/.
[6] V.D.MAHAJAN, JURISPRUDENCE AND LEGAL THEORY 471 (5th ed. 1987).
[7] Mridushi Swaroop, *Kelson's theory of grundnorm* , MANUPATRA (Aug. 24, 2019, 11:39 AM) http://manupatra.com/roundup/330/Articles/Article%201.pdf
[8] Edwin W. Patterson, *Hans Kelsen and His Pure Theory of Law*, 40 CALIFORNIA L.R. 5, 7 (1952).
[9] DS Yadav, *Grundnorm- the search for its content and norms*, LAWYERSCLUBINDIA (Aug. 26, 2019, 11:32 AM), http://www.lawyersclubindia.com/articles/GRUNDNORM-SEARCH-FOR-ITS-CONTENT-AND-NORMS-2876.asp.

norms and moral norms. An efficacious administration can render validity to legal norms without even acquiring moral force.

He builds up his "pure theory of law" on the hypothesis of the 'grundnorm' or basic norm. Grundnorm is not capable of deduction from any principles of the pure science of law. There is no higher norm than grundnorm. From the grundnorm, norm-making power devolves upon lower level.[10] This leads to hierarchy of norms. Kelsen says that "in every legal system, a hierarchy of "oughts" is traceable to some initial or fundamental "ought" from which all others emanate. This is called grundnorm. to get an "ought" conclusion from "is" premises, one need some "ought" premise in the background which confers normative meaning. Inevitably, legal chain of validity comes to an end. We reach a point where the "ought" has to be presupposed, and this is the presupposition of the basic norm.[11]This norm may not be the same in every legal system but it is always there.[12] Kelsen, quite explicitly admits that efficacy is a condition of the validity of the basic norm: A basic norm is legally valid if and only if it is actually followed in a given population.

The Pure Theory regards legal norms as having two functions: to confer power on subordinate officials to create subordinate legal norms, and to indicate, at least in part, the content of those norms. Thus one may distinguish two classes of norms: power norms and decisional norms.[13] He advocated that a theory of law should hold uniformity in its application at all times and places. Theory of law must function to organize and unionize heterogeneous laws into an order of single pattern. Kelsen recognized that the grundnorm need not be the same in every legal order, but a grundnorm of some kind will always be there, e.g. a written constitution or will of a dictator. The grundnorm is not the constitution it is simply the presupposition, demanded by theory to obey it.[14]A successful *coup d'état* could create a new basic norm and, therefore, could be the supporting plank for a "new legal order". Once the revolution becomes efficacious in nullifying the old basic norm, it had to be regarded as a law-creating fact giving validity to a "new legal order.[15]

VIII. GRUNDNORM AS PORTRAYED BY HART

H.L.A Hart was a British legal philosopher who wrote "The Concept of Law"[16].Hart's theory is one of the "truly elegant works of analytical jurisprudence," one which is intricately illuminating, yet who's endeavour to provide a comprehensively reasoned account of law fail to achieve the pinnacle of this highly lauded

[10] AVATAR SINGH & HARPREET KAUR, INTRODUCTION TO JURISPRUDENCE 100-101(3rd ed. 2009).
[11] Supra note 4.
[12] V.D.MAHAJAN, JURISPRUDENCE AND LEGAL THEORY 473 (5TH ed. 1987).
[13] Edwin W. Patterson, *Hans Kelsen and His Pure Theory of Law*, 40 CALIFORNIA L.R. 5, 8 (1952).
[14] Mridushi Swaroop, *Kelson's theory of grundnorm* , MANUPATRA (Aug. 24, 2019, 12:19 PM) http://manupatra.com/roundup/330/Articles/Article%201.pdf .
[15] *Interpreting Kelsen and validating coups*, LUMS LAW JOURNAL (Aug. 28, 2019, 11:29 PM), https://lumsjournal.wordpress.com/2008/08/04/interpreting-kelsen-and-validating-coups/.
[16]H.L.A. Hart, The Concept of Law (Clarendon Press, 1994).

aspiration[17]. In this book he advanced a theory of an ultimate norm in the legal system of a country. This norm determines the validity of the primary rules of the legal order. This norm also tries to differentiate between contemporary and primitive legal orders.

There are two types of rules:

- Primary Rules
- Secondary Rules

Hart has made a distinction between the two.

The primary rules are the rules of conduct which sets the obligation for an individual that what he is supposed to do and what not. Primary rules also set consequences for performing function not in accordance with the set obligation and consequences for obedience of the same.

Secondary rules are those rules that prescribes for the alteration or creation of the primary rules.

So primary conduct is governed by primary rules whereas secondary rules govern both primary as well as secondary rules. Further secondary rules have been sub-categorized into three rules. It was because of the opinion that Hart was holding regarding primitive legal orders. He stated that primitive legal orders have natural uncertainty, inefficiency, and incapability to evolve with the time. Hart has portrayed the following rules in order to tackle the above mentioned drawbacks of the primitive legal orders. These are the secondary rules

- Secondary Rule of Regulation.
- Secondary Rule of change.
- Secondary Rule of adjudications.

He contends that there is no designated rule or person through which validity can be determined by a legal order and therefore primitive legal order is uncertain. This research project will only focus on the Harts Rule of Recognition.[18]According to this theory, every legal system have a set of rules through various laws derives validity and hence is the ultimate source of a legal system.[19]so it can be said that a given rule will be valid only when it is in conformity with the set parameters of the rule of recognition.[20] Hart introduced this theory in the 5th chapter of the Concept of Law. In this chapter he explained this theory by considering a community which

[17] M.P. Goulding, Philosophy of Law (Prentice Hall, 1975).
[18] See HLA Hart, THE CONCEPT OF LAW (2ndEdn., 1994). There are two types of rules of recognition which are supreme rule of recognition and ultimate rule of recognition. The research project is concerned with the latter.
[19] HLA Hart, THE CONCEPT OF LAW 106 (2ndEdn., 1994).
[20] HLA Hart, THE CONCEPT OF LAW 106 (2ndEdn., 1994).

does not have any sort of legal systems due to which various kinds of social problems may arise, and how these problems can be solved by certain rules (Rule of Recognition i.e. grundnorm).

In a pre-law society, hart was of the opinion that all the laws were customary in nature[21]. In other words, a rule will exist in a group of people only when it is recognized and obeyed by most of the people of that group.[22] This determines its efficacy.

IX. COMPARISON OF CONSTITUTION AS GRUNDNORM IN INDIA AND UK

In Indian context, the "basic structure" of the constitution can be regarded as the rule of recognition or grundnorm which is the ultimate source of a legal system as the laws in the constitution derives validity from the set standards of the basic structure.

The basic structure majorly includes: The supremacy of the Constitution, India as a sovereign socialist, secular democratic, republic as enshrined in the Preamble and a welfare state, federal character of the Constitution, the unity and the integrity of the nation, separation of power between the legislature, the executive and the judiciary, PART- III i.e. Fundamental Rights. Laws enacted and enforced in the country have to be consistent with the basic structure and acquire their legal sanction if the comply with it as the touchstone of validity. However, the critics are of the opinion that there is no such term as basic structure and its use is illegitimate.[23] This contention can be answered by the Doctrine of Implied Legislation. It is not necessary that in a written constitution everything is expressly stated. Therefore, there exists some inherent and implied conditions, limitations, powers in the constitution which are un-violable and unamendable. It hence follows that doctrine of implied limitations forms the basis and supports the idea of basic structure.[24] The idea of constitutional morality states that one should consider the norms and rules of the constitution as supreme and should obey them. It should be kept in mind that an act of an individual should not be arbitrary in nature so as to violate such norm or rule.[25] So in a layman's language it can be said that for a law to be valid it should be in conformity with the basic structure, which means that if the law is obeying the set parameters and standards of the Grundnorm the law will be valid. This approach was witnessed in the judgement of Naz Foundation v. Government of NCT of Delhi.[26] In this case the criminalization was justified on the basis of morality. Constitutional morality was used in this case to determine whether the criminalization was valid or not. Non-compliance with the constitutional

[21]H.L.A.Hart,THE CONCEPT OF LAW 91 (JoAugh Raz and Penelope Bullock eds., 2d ed. 1994).
[22]For the description of Hart's theory, see JOAUGH RAZ, PRACTICAL REASONS AND NORMS 49-58 (2d ed., Princeton University Press 1992).
[23]Raju Ramachandra, The Supreme Court and the Basic Structure DAugrine' in SUPREME BUT NOT INFALLIBLE, 108 (2000).
[24]Manoj Narula v. Union of India ¶ 41 (2014) 9 SCC 1.
[25]Manoj Narula v. Union of India ¶ 64 (2014) 9 SCC 1.
[26]Naz Foundation v. Government of NCT of Delhi 2010 Cri LJ 94.

morality should render such decisions as invalid. And therefore, basic structure regarded as the Grundnorm should be the ideal method to avoid such contentions involving the question of morality.

The parliament has the power to amend the constitution but it is subjected to procedural and substantive limitations. Article 368 talks about procedural limitations and for the first time substantive limitation was pointed out in the case of Kesavananda Bharati v. State of Kerela[27] as the principle of basic structure. Basic structure means that sphere of the constitution with which the parliament cannot interfere. It is the core of ultimate rule of recognition. This case supported the claim of calling the basic structure as the validating authority of any law or norm.

Basic Structure concept was reaffirmed- In Indira Gandhi v. Raj Narayan ,the Supreme Court struck down cl.(4) of article 329-A,which was inserted by the 39th Amendment on the ground that it was beyond the amending power of the parliament as it destroyed the " basic feature" of the constitution.[28]

In case of L. Chandra Kumar v. Union of India , a Bench of seven Judges declared "That the power of judicial review vested in the High Courts under Article 226 and in the Supreme Court under Article 32 of the Constitution is an integral feature of the Constitution, constituting part of its basic structure".[29]Therefore we can observe that every law that is enacted gets its legal sanction from the basic structure which is the unamendable part of Constitution. Its validity and effectiveness is the proof of its efficacy.

For the **United Kingdom**, one of the longest established fundamental principles of governance is the 'rule of law'. The theory of 'rule of law' was brought forth by A.V. Dicey. Its roots can be traced back in the year 1215, when Magna Carta was drafted. Magna Carta, was objectified to establish peace between the King and barons as its first purpose. Magna Carta effectively prevented the outbreak of full-scale warfare. Within a week of its making, the King had written to each county of England requiring his sheriffs to proclaim a firm peace and to make arrangements for the charter to be enforced.[30] The foundational constitutional text for the UK is the Magna Carta issued by King John of England in 1215. When Magna Carta was introduced into the legal system, there were contingencies regarding its enforcement. Sheriffs couldn't be trusted to act as custodians of the charter. As a result bishops came forth to bear the responsibility of ensuring that charter was publicized and preserved in churches, cathedrals. This gave the charter a legal, and moral backing with religious recognition and social acceptance, which resulted into its effectiveness to achieve the desired goal of promoting peace, harmony and

[27] (1973) 4 SCC 225)
[28] Himanshu Tyagi, *DAugrine of Basic Structure- constitutional law,* LEGAL SERVICES INDIA (Aug. 28, 2019, 04:37 PM), http://www.legalserviceindia.com/articles/thyg.htm.
[29] Himanshu Tyagi, *DAugrine of Basic Structure- constitutional law,* LEGAL SERVICES INDIA (Aug. 28, 2019, 04:57 PM), http://www.legalserviceindia.com/articles/thyg.htm.
[30] Nicholas Vincent, *Consequences of Magna Carta,* BRITISH LIBRARY (Aug. 1, 2019, 10:58 PM), https://www.bl.uk/magna-carta/articles/consequences-of-magna-carta.

the foundation of democracy in England. Three out of four Runnymede charters are preserved in cathedrals and exist in even today with their magnificence. In the 13th century Magna Carta was occasionally reissued with some modifications regarding administrative changes, the major one was taxation. By insisting that there were rights and customs that stood above the authority of any particular king, Magna Carta, in its many reissues, embedded the sense that England was a land of liberties. Even the most powerful of tyrants would now have to answer to the rule of law.[31] Since then, the constitution has evolved organically over time in response to political, economic, and social changes.[32] In 17th century, the Petition Of Rights of 1628 was introduced. It got its legal sanction from Magna Carta, conferring rights, liberties and freedom from arbitrary arrest and punishment. The Bill of Rights (1689) then settled the primacy of Parliament over the monarch's prerogatives, providing for the regular meeting of Parliament, free elections to the Commons, free speech in parliamentary debates, and some basic human rights, most famously freedom from 'cruel or unusual punishment'.[33] Then the Act of Settlement (1701), which controlled succession to the Crown, and established the vital principle of judicial independence. The Parliament Act, (1911-49), The Representation of People's Act, 1918, European Communities Act, 1972, The Scottish, Welsh and Northern Ireland devolution Acts of 1998, The Human Rights Act (1998)[34] all carry the ideas of Magna Carta as their grundnorm. The constitution of UK is uncodified and is derived from four sources: (1) statute laws passed by the legislature, (2) common laws established by the court judgments, (3) parliamentary conventions and (4) works of authority by constitutional theorists.

The constitution of UK has undergone major changes in the past two decades. Key developments are- " incorporation of the European Convention on Human Rights into UK law via the Human Rights Act of 1998, establishment of devolved legislatures in three of the UK's four constituent nations in 1999, partial reform of the House of Lords in 2000, and the introduction of Supreme Court in 2009."[35]

Therefore Magna Carta and Bill of Rights are the basic norm validating the laws and impositions in UK. Kelsen's theory traces the validity of every official act by the ultimate authority of the original constitution of state. While constitutions have not been expressly framed on Kelsen's theory, it seems useful for most written constitutions, and less useful for nations, such as the United Kingdom, which has no written constitution.[36]

[31] Nicholas Vincent, *Consequences of Magna Carta*, BRITISH LIBRARY (Aug. 1, 2019, 11:25 PM), https://www.bl.uk/magna-carta/articles/consequences-of-magna-carta.
[32] *UK Constitutional Law*, GEORGETOWN LAW LIBRARY (Aug. 26, 2019, 10:41AM), http://guides.ll.georgetown.edu/c.php?g=365741&p=2471214.
[33] Robert Blackburn, *Britain's unwritten constitution*, BRITISH LIBRARY (Aug. 29, 2019, 02:39 PM), https://www.bl.uk/magna-carta/articles/britains-unwritten-constitution.
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[36] Edwin W. Patterson, *Hans Kelsen and His Pure Theory of Law*, 40 CALIFORNIA L.R. 5, 8 (1952).

X. CONCLUSION

The researcher hereby conclude affirmatively with the hypothesis that "the grundnorm conducts itself as the document or concept which offers validity and efficacy to be able to judge every other law or imposition on its anvil therefore making it clear that grundnorm is be a statutory document or a which guides the relevance of every single legal element." The validity of a grundnorm is determined by its efficacy. Grundnorms are deeply rooted in the legal system and the new enactments which gain validity only after approval of grundnorm. Only a revolution which can uproot the whole legal system can extirpate the grundnorm.

The efficacy of grundnorm in legal system of common law countries viz. India and UK. the legal torchbearers i.e. constitutions of these countries showcase the existence of grundnorm as they judge a law when it is enacted and confer validity for its enforcement. In India, except the basic structure, the rest of constitution is amendable, hence only the basic structure of constitution is the grundnorm in India. In UK, as there is no written constitution, Magna Carta and Bill of Rights are the rule of recognition.

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4. *HLA Hart, THE CONCEPT OF LAW 106 (2nd Ed, 1994).*

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