Societal Importance Of The Rule Of Law

The rule of law is of great societal importance as it ensures the maintenance of a free, democratic and fair society. In simple terms, it is the principle that no one is above the law, including those who make and enforce it. This rule is considered to be a fundamental legal concept as it eliminates the possibility of arbitrary power emerging. As it does this, it is crucial in ensuring that the use of power by governing powers is legal and in alignment with what is written; laws are adopted and enforces procedurally. This principle ultimately sets requirements for legal and government systems in order to ensure social equality, through maintaining a fair balance of power, and equality for all before the law. Under this principle it is necessary for just outcomes to be awarded to all brought before the legal system, legal decisions to be consistent, fair and impartial, the rights and freedoms of individuals to be protected, ways to settle disputes in accordance to the law to be available and that laws are knowable, followable and fit for purpose.

The importance of the rule of laws maintenance within society is evident in the case of R v Einfeld [2009] NSWSC 119. The case concerns Marcus Enfield, former lawyer, high court judge and human rights activist who claimed his friend, who was deceased at the time, was driving the vehicle in which he was fined $75 for going over the legal speed limit. By lying under oath, Einfield committed an offence under section 319 of the NSW Crimes Act of 1900: “perverting the course of justice”. When the proceedings, taking place in the Supreme Court, eventually began after various attempts of adjournment, barrister Mr Campbell lodged an application to prevent the publication of knowledge concerning previous attempts of appeal and all proceedings of the case prior to its conclusion. When overviewing this application, the court made reference to the principle stated by McHugh J in John Fairfax and Sons Limited v Police Tribunal of New South Wales (1986):

“The fundamental rule of the common law is that the administration of justice must take place in open court.”

This principle was used in reference by the Judge to decide that the case would be publicised. Mr Campbell later wished to reinstate his application utilising Spigelman CJ’s description of it’s necessity in John Fairfax Publications, his Honour observed at 366 [103] which stated that cases when publicised cause jurors to be “...exceptionally fragile and prone to prejudice.” Again dissolving this application, his Honour referenced observations of Mason CJ and Toohey J in R v Glennon (1992) 173 CLR 592 at 603, concerning the potential of the jury to employ prejudice when a case is published and that in response they must act “...in conformity with the instructions given to them by the trial judge will render a true verdict in accordance with the evidence”. The judges' motion to dissolve this application demonstrates how the rule of law is upheld in relation to all who come before the law, regardless of their status, knowledge and understanding in the legal and court systems. Through dissolving this motion, the judge reinforced the importance of maintaining the rule of law within society and that all people are treated equally in the eyes of the law. In the case of this application being successful, the rule of law would not have been upheld as the key purpose of its motioning was to preserve Einfeld’s reputation, pride and prevent possible prejudice impacting the jury; this would have been unfair as under common law justice must take place in an open court. Therefore, it is of utmost

importance that the rule of law is maintained in all legal proceedings and cases to ensure all people are treated equally under the law.