



The rule of law in India: A critical analysis of constitutional evolution and contemporary administrative challenges

Hitika Agrawal, Nandini Bhilala, Rohit Rajoriya
National Law Institute University, Bhopal, Madhya Pradesh, India

Abstract

The Rule of Law constitutes the foundation of constitutional governance in India, ensuring that all state action is subject to law, reason, and accountability rather than arbitrary discretion. Rooted in classical thought and articulated through A.V. Dicey's principles of supremacy of law, equality before law, and predominance of legal spirit, the doctrine has evolved in the Indian constitutional framework through judicial interpretation and the expansion of fundamental rights. The Constitution, particularly Articles 14, 19, 21, 32, and 226, embeds the Rule of Law as a guiding norm for administrative governance and judicial review.

Indian courts have transformed the Rule of Law from a formal concept into a substantive guarantee of fairness, reasonableness, and natural justice, as reflected in landmark decisions such as *E.P. Royappa v State of Tamil Nadu*, *Maneka Gandhi v Union of India*, and *Kesavananda Bharati v State of Kerala*. The judiciary has played a crucial role in checking arbitrariness, institutionalizing checks and balances, and safeguarding fundamental rights against administrative excess.

However, contemporary governance reveals significant challenges to the effective realization of the Rule of Law, including frequent internet shutdowns, disproportionate use of Section 144 CrPC, the enactment of controversial farm laws, and concerns surrounding the Citizenship (Amendment) Act, 2019. These developments highlight tensions between executive discretion and constitutional liberties, raising concerns about democratic backsliding and erosion of accountability.

The study concludes that while the Rule of Law remains an indispensable pillar of India's constitutional democracy, its practical enforcement requires stronger procedural safeguards, transparency in delegated legislation, restraint on executive discretion, and continued judicial vigilance. The modern conception of the Rule of Law must move beyond mere legality to encompass human dignity, socio-economic justice, and inclusive governance within the administrative state.

Keywords: Rule of law, administrative process, judicial review, arbitrariness, natural justice, fundamental rights, equality before law, delegated legislation, constitutional morality, democratic governance

Introduction

The Rule of Law is one of the most fundamental principles of constitutional governance, embodying the idea that law, rather than arbitrary will, must guide the actions of the state. At its core, it ensures equality before law, accountability of authorities, and protection of individual liberties. Though its origins trace back to the Magna Carta of 1215 and later A.V. Dicey's exposition of supremacy of law, equality before law, and predominance of legal spirit, the concept has evolved into a dynamic doctrine that adapts to the changing needs of modern democratic societies.

In the Indian context, the framers of the Constitution enshrined the Rule of Law within the constitutional framework, making it the bedrock of governance. The Preamble's ideals of justice, liberty, and equality, reinforced through Part III on Fundamental Rights and Part IV on Directive Principles of State Policy, establish the supremacy of law over arbitrariness. Judicial review under Articles 32 and 226 empowers courts to check administrative excesses and ensure constitutional compliance. Over decades, landmark judgments such as *Maneka Gandhi v Union of India*, *Kesavananda Bharati v State of Kerala*, and *E.P. Royappa v State of Tamil Nadu* have expanded its scope, integrating principles of fairness, natural justice, and reasonableness into administrative actions.

However, the reality of governance in India reveals significant gaps between constitutional ideals and administrative practices. Instances such as frequent internet

shutdowns, disproportionate use of Section 144 CrPC, enactment of controversial farm laws, and the discriminatory implications of the Citizenship (Amendment) Act, 2019 highlight a troubling pattern of executive overreach. These examples demonstrate how arbitrariness undermines not only constitutional guarantees but also public trust in democratic institutions.

At the same time, the Rule of Law continues to hold immense relevance in shaping accountable governance, ensuring protection of human rights, and fostering socio-economic justice. In a rapidly evolving polity, its role is not only to curb state excess but also to ensure that administrative processes remain fair, transparent, and aligned with constitutional morality. Thus, examining the role of the Rule of Law in regulating the administrative process becomes crucial to understanding both its enduring strength and its contemporary challenges.

Concept And Evolution of The Rule of Law

According to the concept of the Rule of Law, no individual is above the law, and every person is equally subject to its authority irrespective of position or status. The term derives from the French expression *la principe de legalité*, which signifies that it is the law, and not individuals, that must prevail^[1]. Although the phrase has not been uniformly defined, its foundation is generally attributed to A.V. Dicey's classical exposition.

India's identity as a sovereign state is explicitly affirmed in its Preamble and constitutional framework. Over the years,

the judiciary has expanded the scope of the Rule of Law through judicial activism by enforcing and interpreting various constitutional provisions. The Rule of Law may be understood through five guiding principles authorization, notice, justification, coherence, and procedural fairness which collectively form the framework for lawful administrative governance. These principles not only support restrictive interpretations of executive powers, such as the President's authority to direct subordinate officials or the weight given to agencies in defining their jurisdiction, but also expose problematic practices, such as the long-standing doctrine allowing agencies to avoid justifying their choice of policymaking form.

A notable development in modern governance has been the expansion of executive legislative powers, particularly in the form of delegated legislation. Delegated legislation has become central to the study of administrative law, given its growing role in regulating complex societal functions. For citizens, the most effective safeguard against the potential misuse of delegated powers lies in ensuring procedural safeguards in rule-making.

As the foundation of democracy, the Rule of Law ensures that violations of fundamental rights or unlawful administrative actions can be challenged in court, with the judiciary empowered to strike them down as unconstitutional [2]. Rooted in centuries of thought, it upholds Plato's view that no one is above the law, Aristotle's belief in law as the State's sovereign, the medieval German principle binding the King to law, and John Locke's assertion that governments must act within the law.

Magna Carta

On June 15, 1215, in the meadows of Runnymede, King John and his barons agreed to the Magna Carta, the first written instrument to limit the king's power and require governance within accepted norms. Though originally a bargain between the crown and feudal lords, it marked a historic shift: the king himself was now bound by law. As Winston Churchill observed, its root principle outlived its feudal origins, becoming a lasting affirmation, that royal power was not absolute [3]. Across centuries, whenever state authority sought to suppress rights and liberties, Magna Carta was invoked as proof that even the sovereign is subject to a higher law. This enduring legacy alone explains the reverence it commands.

A. V. Dicey's Concept of 'Rule Of Law'

The Rule of Law is a foundational principle in common law countries, though modern legal systems have, at times, departed from certain aspects of it. Writing in the 19th century, A.V. Dicey described the Rule of Law as the "absolute supremacy of regular law as opposed to the influence of arbitrary power," rejecting the notion of prerogative or broad discretionary authority of the government. He warned that wherever discretion exists, there is potential for arbitrariness, which threatens the legal freedom and security of citizens.

Dicey's Fundamental Principles of the Rule of Law

1. Supremacy of Law: The foremost principle of the Rule of Law is that law is supreme, and no individual can be subjected to sanction except for a clear violation of law established in a legal manner and adjudicated by

ordinary courts. This ensures that penalties are imposed only after due process. Under the Indian Constitution, this principle is reflected in Article 20(1) & (2), which guarantee that an accused is informed of the grounds of arrest and charges. In *Indira Nehru Gandhi v Raj Narain* [4], the Supreme Court emphasized that Rule of Law requires decisions to be based on existing legal norms and principles, ensuring predictability; actions taken without such legal foundation are arbitrary and contrary to the Rule of Law.

2. Equality Before Law: All individuals, irrespective of rank or status, are subject to the same laws administered by ordinary courts. No special privileges or extraordinary tribunals are required for government officials or public servants [4]. This principle is enshrined in Article 14 of the Indian Constitution and recognized in the Universal Declaration of Human Rights.

3. Predominance of Legal Spirit: The last principle of the Rule of Law states that the general rules of the basic law of the land emerge from judicial decisions recognizing the rights of individuals in specific cases. Dicey emphasized the crucial role of courts, observing that rights are better protected when they can be enforced through judicial remedies rather than merely being declared in the Constitution, as the latter may be curtailed or ignored [5]. He further noted that constitutional law and related regulations are not the source of individual rights but rather the outcome of judicial recognition and enforcement of those rights.

Constitutional basis of the rule of law

In india

The principle of the Rule of Law has significantly shaped Indian democracy. While framing the Constitution, the founding fathers borrowed provisions from both the United States and England, incorporating the concept of the Rule of Law from the latter. In India, the Constitution is supreme, and no authority stands above it. The Preamble and Part III of the Constitution reflect the ideals of justice, equality, and liberty, establishing the Rule of Law as a guiding principle.

Article 14 guarantees equality before the law and equal protection of laws, while fundamental rights under Articles 13, 14, 15, 19, 21, 22, 25, 28, and 31A safeguard individual freedoms. In cases of violation, individuals may seek remedies before the Supreme Court or High Courts under Articles 32 and 226 [6]. Both Union and State legislation must conform to constitutional provisions, and any law contravening them is liable to be struck down as void. Under Article

32, the Supreme Court may issue writs such as Habeas Corpus, Mandamus, Prohibition, Quo

Warranto, and Certiorari, exercising the power of judicial review to uphold the Rule of Law and prevent unconstitutional or ultra vires enactments.

The Rule of Law is not a rigidly defined legal doctrine, and courts usually refrain from striking down statutory provisions merely for being inconsistent with it. Nevertheless, in *A.D.M. Jabalpur v Shivakant Shukla* [7], an effort was made to contest detention orders passed during the Emergency by arguing that they contravened the principles of the Rule of Law. The contention was based on

the argument that the “obligation to act by the Rule of Law is a central feature of our constitutional system and constitutes a basic feature of the Constitution.” Although the contention was not formally accepted and certain justices even held that during an Emergency the provisions of the Constitution relating to Emergency themselves constitute the Rule of Law, a close reading of all five opinions reveals that the principle was not entirely rejected. Despite the unfortunate conclusion that the doors of the courts remain closed to detenus during an Emergency, the case highlighted the potential of the Rule of Law as a legal concept within constitutional interpretation.

Further, in *A.K. Kraipak v Union of India* ^[8], the Supreme Court emphasized that in a democratic government, the Rule of Law is an essential requirement. The Court noted that the Rule of Law flows like a golden thread through the entire Constitution and forms one of its essential features. It requires every organ of the State to function strictly within the limits of authority granted by the Constitution and the law, thereby upholding constitutional governance and affirming the supremacy of law over arbitrary action.

The Rule of Law continues to remain a vital necessity for fair and just governance. With the ever-expanding powers of the government, the preservation of this principle becomes increasingly significant. The Rule of Law is not a static concept; rather, it is dynamic and evolves with changes in social, economic, and political values. Nevertheless, its core objective persists in ensuring the fullest development of individual personality while balancing it with the interests of society.

In *Chief Settlement Commissioner, Punjab v Om Prakash* ^[9], the Supreme Court underscored that in India’s constitutional framework, the central and most defining feature is the concept of the Rule of Law. In the contemporary context, this signifies the authority of the courts to scrutinize all administrative actions against the standard of legality. Any administrative or executive action that fails to satisfy this standard is liable to be struck down if challenged by an aggrieved party before a competent court.

Similarly, in *Sambamurthy v State of Andhra Pradesh* ^[10], the Supreme Court declared unconstitutional a provision that authorized executive interference with the functioning of tribunals. The Court held that such interference constituted a violation of the Rule of Law, which forms a basic and essential feature of the Constitution. This reaffirmed the judiciary’s role in safeguarding the Rule of Law by ensuring that executive power does not encroach upon judicial independence or compromise the delivery of justice.

Rule of Law And The Administrative Process

The Rule of Law is the cornerstone of a democratic and constitutional system of governance. It implies supremacy of law over arbitrariness and ensures that every action of the government is justified, legal, and accountable. In modern welfare states, administrative agencies exercise wide powers to regulate social, economic, and political life. This makes the adherence to the Rule of Law indispensable in the administrative process, as it acts as a safeguard against misuse of authority and ensures fairness in decision-making.

1. Control over arbitrariness: The foremost function of the Rule of Law in the administrative process is to ensure control over arbitrariness. Arbitrary state action

undermines fairness and equality, making governance unpredictable and unjust. The requirement that every administrative action must be supported by law acts as the first safeguard against arbitrariness. Authorities are expected to provide reasons for their decisions, thereby promoting transparency and enabling judicial scrutiny. The Supreme Court, in *E.P. Royappa v State of Tamil Nadu* ^[11], observed that arbitrariness and equality are sworn enemies, holding that arbitrary action by the State is violative of Article 14 of the Constitution. Similarly, in *Maneka Gandhi v Union of India*,¹³ the Court expanded the scope of personal liberty under Article 21 and emphasized that any administrative procedure must be just, fair, and reasonable. These decisions underline the constitutional mandate that arbitrary administrative action is antithetical to the Rule of Law and must be checked at all levels.

2. Institutionalizing checks and balances: The Indian Constitution establishes limited government through explicit and implicit constitutional restraints. As a federal system, it distributes legislative powers between the Union and the States, with laws enacted beyond this competence subject to being struck down by the courts. The executive’s ordinance-making powers under Articles 123 and 213 are similarly restricted in scope and duration. While not enforcing a strict separation of powers, the Constitution provides checks and balances for instance, every bill requires the President’s assent, and Parliament may impeach the President for constitutional violations. In *Kharak Singh v State of Uttar Pradesh* ^[12], the Supreme Court held that executive action without statutory backing, particularly when infringing fundamental rights, is invalid. Retrospective penal laws are generally prohibited, while safeguards such as periodic elections, a free press under Article 19(1)(a), and judicial review serve as effective checks on legislative and executive authority, preserving the principle of limited governance.

3. Equality before the law and protection of human rights: One of the primary objectives of the Indian Constitution is to establish equality, achieved mainly through Fundamental Rights and Directive Principles of State Policy. Part III (Articles 12–35) guarantees rights such as equality before law, freedom of speech, protection against double jeopardy, right to life and liberty, freedom of religion, and safeguards against arbitrary arrest ^[13]. Article 14 ensures equality while permitting reasonable classification. Article 21, interpreted broadly by the courts, extends beyond mere existence to include the right to live with dignity. Its expanding scope has incorporated rights to health, livelihood, education, clean environment ^[14], shelter, drinking water, privacy, speedy trial, and protections for under-trials and prisoners ^[15], making it a dynamic source of fundamental rights.

4. Judicial review by an independent judiciary: An independent judiciary with the power of judicial review is a fundamental aspect of the Rule of Law, and this safeguard is strongly embedded in the Indian Constitution. The appointment of judges to the Supreme Court and High Courts is carried out by the

President in consultation with senior judges, with the judiciary itself exercising significant control over the process.

Provisions safeguard judges through security of tenure (Articles 124 and 218), and protection of salaries and privileges (Articles 125 and 221), while legislative debate on judicial conduct is barred except in impeachment proceedings. These measures insulate judges from external pressures, ensuring impartiality. However, the judiciary has often been criticized as being over-independent, resisting accountability measures, and making impeachment practically impossible. Despite this, judicial independence remains vital for fair decision-making and for upholding the rule of law as the foundation of constitutional democracy.

5. **Natural justice in administrative decisions:** The principles of natural justice are central to the Rule of Law, ensuring fairness in administrative decision-making where individual rights are at stake. The two fundamental principles are: *audi alteram partem* (a person must be given a fair opportunity to be heard) and *nemo iudex in causa sua* (no one should adjudicate a matter in which they have a personal interest). In *A.K. Kraipak v Union of India*, the Supreme Court held that even administrative actions must observe fairness, thereby erasing the rigid line between administrative and quasi-judicial functions. Likewise, in *Maneka Gandhi v Union of India*^[16], the Court underscored that fairness is implicit in the “procedure established by law,” and denial of a hearing constitutes arbitrariness. By embedding natural justice into administrative processes, the Constitution ensures protection against abuse of power and promotes transparent, just governance.

Exceptions To The Rule of Law

Dicey’s theory of rule of law, which emphasises equality before law and absence of discretionary power, cannot be strictly applied in India due to several constitutional and legal exceptions. The President and Governors are vested with wide discretionary powers under the Constitution, including the authority to grant pardons, reprieves, respites, and remissions of punishment under Articles 72 and 161. Article 85 empowers the President to summon, prorogue, and dissolve the House of the People, while Articles 200 and 356 grant Governors the power to reserve bills for Presidential consideration and recommend state emergency. Police officers and criminal courts also enjoy wide discretionary powers, such as arrest without warrant in cognisable offences and imposition of punishments. Although Article 14 guarantees equality before law, public servants and officials are provided with special privileges and immunities to ensure smooth functioning of the administration^[17]. Further, Article 361 provides immunity to the President and Governors from legal proceedings during their tenure, while civil proceedings against them require a two-month prior notice. Additionally, under international law, visiting heads of state, foreign dignitaries, and diplomats enjoy immunity from the jurisdiction of local courts while discharging official duties. These provisions illustrate that while the principle of rule of law is upheld in India, it is subject to several constitutional exceptions.

Judicial Approach To The Rule Of Law In Administrative Actions

The judiciary in India has been entrusted with the vital responsibility of upholding the Rule of Law in the functioning of the administration. As administrative authorities exercise wide discretionary powers, the potential for arbitrariness becomes significant. To prevent misuse of such power, the courts, through the mechanism of judicial review, ensure that all administrative actions are legal, reasonable, and consistent with constitutional principles. By insisting on fairness, accountability, and adherence to natural justice, the judiciary acts as a safeguard against administrative excesses and reinforces the supremacy of the Rule of Law in governance.

1. **A.D.M. Jabalpur v Shivkant Shukla (Habeas Corpus Case)**^[18]: is one of the most significant in the context of the Rule of Law. The Court examined whether the Rule of Law in India has an existence independent of Article 21 of the Constitution. The five-judge bench, concluded that the Rule of Law does not stand apart from Article 21 and that no separate doctrine of Rule of Law exists outside it. Later, in *Veena Sethi v State of Bihar*^[19], the Supreme Court broadened the scope of the Rule of Law, emphasizing that it extends to the poor, downtrodden, illiterate, and marginalized those who often lack the means to assert their rights. The Court ruled that the Rule of Law is not reserved for the privileged but must protect all sections of society from exploitation and ensure justice for the majority.
2. **A. K. Kraipak v Union of India**^[22]: Under the Indian Constitution, the Rule of Law extends over the entire field of administration, ensuring that every organ of the State functions within legal limits. In a modern welfare state, the jurisdiction and powers of administrative bodies have been expanding rapidly, making their role crucial in governance. However, the very essence of the Rule of Law would lose its significance if these instrumentalities of the State are not bound to discharge their functions in a fair, just, and reasonable manner. Thus, adherence to the Rule of Law in administrative processes is indispensable for maintaining accountability, protecting individual rights, and upholding constitutional values.
3. **Kesavananda Bharati v State of Kerala**^[20]: widely regarded as a cornerstone of Indian constitutional jurisprudence, which established the Basic Structure doctrine. This doctrine empowers the judiciary to review and strike down constitutional amendments that alter or conflict with the Constitution’s basic structure. In a narrow 7–6 majority, the Court ruled that the Rule of Law forms an integral part of the Constitution’s basic structure and therefore lies beyond the amending authority of Parliament. The decision reaffirmed earlier precedents that underscored the judiciary’s responsibility in protecting constitutional supremacy.
4. **Maya Devi v Raj Kumar**^[21]: The Indian Constitution envisages a government based on the Rule of Law and not the rule of men. It affirms that however high an individual may be, he remains subject to the law of the Constitution. In a system governed by the Rule of Law,

no authority can claim absolute or unbridled power to act according to personal whims or fancies. The concept of Rule of Law is, therefore, deeply embedded in the Indian constitutional framework and has been consistently upheld and reinforced through judicial pronouncements, making it a cornerstone of democratic governance.

5. **Maneka Gandhi v Union of India** ^[25]: the Supreme Court expanded procedural review and incorporated principles of natural justice by reading Articles 14, 19, and 21 together. Justice Bhagwati held that the “procedure established by law” under Article 21 must also meet the substantive standards of reasonableness, equality, and nonarbitrariness prescribed by Articles 14 and 19. The Court emphasized that any procedure must be “right, just, and fair, and not arbitrary, fanciful, or oppressive,” effectively transforming Article 21’s procedural guarantee into substantive judicial review. Natural justice was thereby integrated into the framework of fundamental rights, ensuring fairness and reasonableness in administrative and legal processes.

The Intrinsic Relation Of Rule Of Law & Human Rights

The Rule of Law and human rights share an inherent and inseparable relationship, each strengthening and giving meaning to the other. The Rule of Law provides the institutional framework and procedural safeguards through which human rights are recognized, protected, and enforced, while human rights supply the moral and constitutional purpose of the legal system. A system that merely enforces laws without safeguarding human dignity reduces the Rule of Law to “rule by law.” Likewise, human rights without effective legal enforcement remain abstract ideals. Together, these principles form the foundation of democratic governance and constitutionalism.

The essence of the Rule of Law lies in limiting the arbitrary exercise of power and ensuring that all individuals are treated equally before the law. These features are indispensable for the protection of human rights. Fundamental freedoms such as liberty, equality, freedom of expression, and protection from arbitrary detention can be meaningfully realized only when the State itself is bound by law and subject to accountability. When governmental authority is exercised without legal restraints, the risk of abuse increases and human rights become vulnerable. Thus, the Rule of Law functions as the procedural mechanism through which human rights are safeguarded against arbitrary state action.

In India, this intrinsic connection is reflected in the constitutional scheme, particularly through the interrelationship of Articles 14, 19, and 21. The judiciary has consistently interpreted these provisions to uphold fairness, reasonableness, and non-arbitrariness as essential components of lawful governance. By rejecting arbitrariness as incompatible with equality and insisting that any restriction on personal liberty must follow just, fair, and reasonable procedures, the courts have reinforced the Rule of Law as the foundation of human rights protection. Judicial review plays a critical role in this framework, empowering courts to invalidate laws and executive actions that infringe fundamental rights. This ensures that constitutional guarantees are not merely symbolic but enforceable in practice.

The Rule of Law is also vital for the realization of socio-economic rights that flow from the right to live with dignity. Judicial interpretations have expanded the scope of personal liberty to include access to basic necessities such as livelihood, health, education, shelter, and a clean environment. These developments reflect the understanding that civil and political freedoms are incomplete unless individuals possess the social and economic conditions necessary to exercise them meaningfully. The Rule of Law ensures that welfare policies and administrative decisions affecting these rights are carried out transparently, reasonably, and in accordance with constitutional standards. At the international level, human rights instruments affirm that dignity, equality, and freedom must be supported by effective legal remedies. This presupposes the existence of independent courts and accountable institutions capable of enforcing rights impartially. Without such mechanisms, international commitments to human rights remain largely aspirational. The Rule of Law thus acts as the bridge between international human rights norms and their domestic implementation.

In contemporary governance, expanding executive power and security concerns often place pressure on civil liberties. The Rule of Law provides the normative framework for balancing collective interests with individual rights by insisting that any limitation on rights must be lawful, proportionate, and subject to judicial oversight. Ultimately, the Rule of Law and human rights operate in a relationship of mutual reinforcement: the former supplies the legal structure necessary for rights to be protected, while the latter provide the ethical purpose that guides the exercise of state power. Together, they ensure that governance is not only lawful in form but just in substance.

Rule Of Law In The Modern Sense

In the modern sense, Dicey’s theory of the rule of law cannot be accepted in its entirety, as the concept has broadened significantly to serve as an ideal for democratic governance. The International Commission of Jurists, through the Delhi Declaration of 1959 (later reaffirmed at Lagos in 1961), redefined the Rule of Law to stress that state authority must respect human dignity. This involves safeguarding not just civil and political rights but also ensuring social, economic, educational, and cultural conditions necessary for the complete development of the individual. Davis identified seven key dimensions of the Rule of Law: maintenance of law and order, adherence to fixed rules, restriction of discretion, assurance of due process and fairness, compliance with natural justice, preference for judicial authority over executive power, and judicial review of administrative decisions ^[22].

Thus, the rule of law does not mean mere rule under any law, but the rule of democratic law enacted by a duly elected legislature after deliberation. Dicey’s views, though influential, have only partially succeeded, as modern legal systems have advanced principles such as judicial review, proportionality, and legitimate expectations. His distinctions between written and unwritten constitutions remain debated, but the essence of the rule of law continues to stress the supremacy of law over arbitrary power, echoing Plato’s ideal of the “government of laws” and Aristotle’s view of law as a product of reason guiding diverse forms of government ^[23].

In the modern perception, the purposes of the rule of law are reflected in various branches. Contract law regulates agreements, trade, and services, thereby ensuring fair dealings in economic transactions. Property law defines people's rights and obligations over tangible property like land and buildings, as well as intangible property such as bank accounts and stocks. Tort law provides remedies when an individual suffers injury, loss, or damage, whether physical or reputational. Criminal law safeguards the community by punishing offences against the state and thereby deterring unlawful conduct. Collectively, these branches establish standards, maintain order, resolve disputes, and protect rights and liberties.

The rule of law further plays a role in setting up societal measures by identifying conduct that is acceptable or unacceptable for instance, laws prohibiting assault or environmental regulations protecting wildlife. It also ensures maintenance of order, as laws embody society's consensus on norms and values. Beyond this, the rule of law acts as a check on governmental power by embedding principles such as due process, fairness, and judicial review of administrative action.

As a dynamic concept, the rule of law is difficult to define in rigid terms. Some equate it with the supremacy of law, while others highlight essential principles like clarity, universality, and stability. Locke's political philosophy underlines two key dimensions: first, that laws emanate from the will of the citizens to safeguard rights and freedoms; second, that government power must be restrained by law to prevent arbitrariness. The rule of law thus ensures that governance operates not by personal discretion but by reasoned and democratically enacted rules. <https://www.researchgate.net/publication/348917768_Modern_Concept_of_the_Rule_of_Law_A_Comparative_approach> accessed on 3rd February 2026.

In conclusion, the modern concept of the rule of law extends far beyond Dicey's classical understanding. It not only prevents arbitrary use of power but also actively creates conditions for justice, dignity, and balanced development of individuals and society. By setting standards, maintaining order, resolving disputes, and protecting liberties, the rule of law has become the cornerstone of democratic governance in both developed and developing nations.

Criticism of Rule of Law

While India, in theory, adheres to the Doctrine of Rule of Law, several recent state actions reveal its erosion through arbitrary exercises of power.

- 1. Internet Shutdowns:** Despite judicial recognition of internet access as part of freedoms under Articles 19(1)(a) and 19(1)(g) in *Anuradha Bhasin v Union of India* [24], India continues to impose frequent and prolonged shutdowns, with 402 shutdowns between 2017–2020 the highest in the world. The 219-day shutdown in Jammu and Kashmir exemplifies restrictions that violate individual liberties and foster an autocratic atmosphere.
- 2. Imposition of Section 144 CrPC:** Intended as an exceptional measure to maintain order, Section 144 has been excessively used, including during protests against CAA, Article 370 abrogation, and environmental movements. Between 2017 and 2020, Delhi alone saw 276 instances. The Supreme Court in *Anuradha Bhasin*

clarified that its repetitive use constitutes abuse of power, as it stifles democratic rights and legitimate dissent.

- 3. Farm Bills (2020):** The three agricultural reform laws have been criticized for favoring large farmers and corporates, undermining the livelihood of small and marginal farmers. This raises constitutional concerns under Articles 14 (equality), 21 (right to livelihood), and Directive Principles (Articles 38(2), 39(c)) by potentially widening economic inequality and concentrating wealth.
- 4. Citizenship (Amendment) Act, 2019:** By excluding Muslims from its ambit, the CAA introduces religious discrimination in the grant of citizenship. The UN High Commissioner for Human Rights has labeled it "fundamentally discriminatory." Coupled with the NRC, it risks rendering many Muslims stateless, directly violating the principle of equality before law, a cornerstone of the Rule of Law.

Modern challenges to the rule of law arise from the gradual erosion of democratic values, judicial independence, and equal access to justice [25]. The concept has expanded from Dicey's classical view of limiting arbitrary power to include fairness, protection of rights, and accessibility of justice [26]. However, growing problems such as autocratic legalism, constitutional decay, and misuse of legal systems undermine its effectiveness. Barriers like inequality, high costs, and systemic delays further weaken public trust in justice delivery. Strengthening institutions, ensuring accountability, and fostering a culture that respects the rule of law are essential to preserve democracy and prevent concentration of power.

Conclusion

The Rule of Law forms the cornerstone of India's constitutional democracy, ensuring that no authority is above the law and that administrative power is exercised fairly, reasonably, and within legal limits. Rooted in classical thought and A.V. Dicey's exposition, the doctrine has evolved in India through judicial activism and constitutional interpretation, particularly under Articles 14, 19, and 21. Courts have consistently stressed that arbitrariness is incompatible with equality, reinforcing the idea that governance must be transparent, accountable, and just.

Over time, the Rule of Law has expanded from a formal doctrine into a substantive guarantee of fairness. Landmark rulings such as *E.P. Royappa v State of Tamil Nadu*, *Maneka Gandhi v Union of India*, and *Kesavananda Bharati v State of Kerala* have not only embedded the principle into the basic structure of the Constitution but also established natural justice and judicial review as indispensable safeguards against executive excess.

However, its application in regulating the administrative process remains inconsistent. Executive actions such as repeated internet shutdowns, disproportionate use of Section 144 CrPC, enactment of controversial farm laws, and the discriminatory potential of the Citizenship (Amendment) Act, 2019 illustrate the growing tension between state power and constitutional liberties. These examples reveal how

unchecked discretion can erode democratic values and weaken public confidence in governance.

Despite such challenges, the Rule of Law continues to be vital for preserving equality, protecting rights, and securing the legitimacy of state action. Its future relevance lies in strengthening procedural safeguards, ensuring transparency in delegated legislation, curbing arbitrary discretion, and reinforcing judicial independence. Equally important is the recognition that the Rule of Law must address not only civil and political rights but also socio-economic justice, dignity, and inclusive development.

In conclusion, while gaps remain in its practical application, the Rule of Law remains indispensable to India's constitutional order. It must be preserved and revitalized through reforms that align governance with constitutional morality. Only by doing so can it continue to function as both a restraint on arbitrary power and a framework for justice and equality in the modern administrative state.

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