
RULE OF LAW: CONCEPT, EVOLUTION, GLOBAL PERSPECTIVE, AND ENFORCEMENT IN THE INDIAN CONSTITUTIONAL FRAMEWORK

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ABSTRACT

The Rule of Law is a foundational principle in democratic societies that upholds the supremacy of law, equality before it, and protection against arbitrary governance. This paper delves into the evolution, significance, and jurisprudence of the Rule of Law from historical origins in England to its present form under the Indian Constitution. The study analyzes judicial interpretations, such as *Keshavananda Bharati* and *Golaknath*, and evaluates global standards and enforcement in countries like the USA, UK, Germany, China, and Australia. It also explores violations, remedies under Indian and international law, and the impact of recent events like misuse of executive power and global court rulings. Through comparative analysis and legal theory, this document highlights the indispensable role of Rule of Law in ensuring justice, transparency, and human rights.

Keywords: Rule of Law, Constitutional Governance, Judicial Review, Human Rights, Legal Remedies, *Keshavananda Bharati*, *Golaknath*, NHRC, International Law, Arbitrary Governance, Legal Equality, India, Global Legal Systems.

1. Introduction

The Rule of Law is central to democratic governance and justice. It prevents arbitrary exercise of power and ensures that all individuals and institutions are accountable under the law. India, being a constitutional democracy, has imbibed the Rule of Law into its constitutional framework and functioning of institutions. While the Constitution does not explicitly define the term, its essence permeates Articles, doctrines, and judicial decisions. This principle has been pivotal in preserving fundamental rights and restraining excessive use of power by the State.

2. Definition

The Rule of Law is a legal doctrine that mandates the supremacy of law in all governmental actions. It ensures that laws are applied equally and fairly to all individuals, regardless of their rank or position. Sir Edward Coke emphasized the principle by stating that even the King must be subject to the law. Aristotle earlier noted: “It is more proper that law should govern than any one of the citizens.”

In contrast to arbitrary rule or personal discretion, the Rule of Law advocates consistency, predictability, and impartiality. It encompasses legal accountability, independent adjudication, and protection of civil liberties.

3. Historical Background and Development

The Rule of Law, though widely regarded today, traces its roots back to ancient civilizations. Aristotle emphasized that law should govern rather than individuals. The principle further evolved in 13th-century England with the Magna Carta (1215), a charter compelling the King to govern within legal bounds. The 16th and 17th centuries saw thinkers like Sir Edward Coke challenge the divine right of monarchs, asserting that even the King must be subject to the law.

In France, this principle evolved under the phrase 'le principe de légalité' (principle of legality), advocating that state actions must be legally justified. In the United States, the idea matured with the doctrine of judicial review introduced in the seminal case *Marbury v. Madison* (1803), providing courts the power to annul unconstitutional laws. [*5 U.S. 137 (1803).*]

In India, the British colonial rule introduced legal institutions grounded in the Rule of Law. Post-independence, the Indian Constitution incorporated this doctrine implicitly through provisions ensuring equality, due process, and judicial independence.

Two major Supreme Court judgments were pivotal in solidifying the Rule of Law in Indian jurisprudence:

Golaknath v. State of Punjab (1967): The Supreme Court held that Parliament could not amend Fundamental Rights. The judgment emphasized that individual liberties were inviolable and not subject to legislative override, thus elevating judicial review and constitutional supremacy. *[AIR 1967 SC 1643.]*

Keshavananda Bharati v. State of Kerala (1973): This historic judgment gave birth to the Basic Structure Doctrine. The Court ruled that while Parliament could amend the Constitution, it could not alter its fundamental framework. The Rule of Law, judicial review, and constitutional supremacy were declared basic features that could not be tampered with. This decision reaffirmed the commitment to limited government and legal accountability. *[AIR 1973 SC 1461.]*

4. “Landmark Judicial Decisions on the Rule of Law”

i. Maneka Gandhi v. Union of India (1978)

This landmark case expanded the interpretation of Article 21 of the Indian Constitution, transforming the understanding of ‘personal liberty’. Maneka Gandhi’s passport was impounded by the government without proper justification, prompting her to challenge the action as a violation of her fundamental rights. The Supreme Court held that the right to life and liberty cannot be curtailed except by a law that is just, fair, and reasonable. It ruled that any ‘procedure established by law’ must not be arbitrary or oppressive, thereby introducing due process into Indian jurisprudence. The judgment also emphasized that Fundamental Rights are not mutually exclusive and must be interpreted harmoniously. Thus, Article 21 must be read with Articles 14 and 19. The Court established that government actions are subject to legal scrutiny under the Rule of Law. This case reaffirmed constitutional morality and underscored judicial review as a safeguard against arbitrary state action. It remains a cornerstone in Indian constitutional law for its progressive interpretation of liberty and procedural fairness.

ii. S.R. Bommai v. Union of India (1994)

In this historic case, the Supreme Court dealt with the misuse of Article 356 of the Constitution, which allows for the imposition of President's Rule in a state. The central issue was whether the President's satisfaction in dissolving a state government is subject to judicial review. The Court held that the proclamation under Article 356 is not absolute and can be challenged in a court of law. It ruled that secularism is a basic feature of the Constitution and any attempt to subvert it could be grounds for central intervention. However, such intervention must be legally justifiable. The decision fortified the federal structure of India and ensured that political misuse of constitutional provisions would be subject to Rule of Law. It also upheld the supremacy of constitutional morality over partisan considerations. The Bommai judgment remains critical in maintaining balance between Union and State powers, preventing arbitrary dissolution of elected governments, and strengthening democratic values.

iii. Mohd. Ahmed Khan v. Shah Bano Begum (1985)

This landmark case dealt with the conflict between personal laws and constitutional guarantees. Shah Bano, a 62-year-old Muslim woman, was divorced by her husband who denied her maintenance beyond the iddah period. She filed a petition under Section 125 of the Criminal Procedure Code (CrPC), seeking maintenance. The Supreme Court held that the right to maintenance under Section 125 CrPC applies to all citizens regardless of religion, thus affirming the supremacy of secular law over personal laws in matters of basic rights.

The Court emphasized that maintenance is a measure of social justice and not charity. It further held that a Muslim woman is entitled to claim maintenance beyond the iddah period if she cannot maintain herself. The judgment sparked national debate, leading to the enactment of the Muslim Women (Protection of Rights on Divorce) Act, 1986. The ruling remains crucial in upholding gender justice and the Rule of Law by asserting that no religious law can override the Constitution's fundamental rights provisions.

iv. International Court of Justice: Ukraine v. Russia (2022)

This recent judgment by the ICJ addresses allegations of genocide in Ukraine by Russia and highlights the evolving application of the Rule of Law in international conflicts. Ukraine filed

the case under the Genocide Convention, seeking a declaration that Russia had falsely accused it of genocide as a pretext for invasion.

The ICJ issued provisional measures instructing Russia to immediately suspend military operations in Ukraine. The ruling underscored the primacy of international law and the ICJ's role in resolving state disputes peacefully. Though enforcement is limited, the case reinforced the importance of legal accountability in wartime, the integrity of international legal instruments like the Genocide Convention, and the rule-based international order.

This judgment not only addressed grave violations but also asserted the global community's commitment to prevent misuse of legal pretexts for military aggression.

v. Shreya Singhal v. Union of India (2015) [AIR 2015 SC 1523.]

This landmark case dealt with the constitutional validity of Section 66A of the Information Technology Act, 2000. The provision criminalized the sending of "offensive" messages through communication service, etc., but it was criticized for being vague and prone to misuse. The Supreme Court, in a historic judgment, struck down Section 66A as unconstitutional, holding it violated Article 19(1)(a) of the Constitution—freedom of speech and expression.

The Court reasoned that the terms used in the section—like “offensive” or “annoyance”—were undefined and open to subjective interpretation. It failed the test of reasonableness under Article 19(2) and had a chilling effect on free speech. The judgment emphasized that mere annoyance or inconvenience cannot be grounds to restrict speech in a democratic society. It also rejected the government's defense that procedural safeguards could remedy the overbreadth.

This case became a cornerstone for freedom of speech in the digital age, reinforcing the idea that restrictions must be clear, reasonable, and necessary. The verdict is frequently cited in discussions about the Rule of Law and cyber law in India.

vi. Keshavananda Bharati v. State of Kerala (1973) [AIR 1973 SC 1461.]

The Keshavananda Bharati case is considered the most important constitutional case in Indian

legal history. The core issue was whether Parliament had unlimited power to amend the Constitution under Article 368. The Supreme Court, in a 13-judge bench, ruled by a 7:6 majority that while Parliament could amend the Constitution, it could not alter its “basic structure.”

The Court listed several inviolable elements under this doctrine: supremacy of the Constitution, secularism, federalism, separation of powers, and notably, Rule of Law. The judgment protected the Constitution from authoritarian misuse and ensured that its core principles were preserved across time.

This case is celebrated not just for its outcome but also for establishing a unique Indian constitutional doctrine that balances democratic will with constitutional continuity. It enshrined the Rule of Law as part of India’s constitutional identity.

vii. Golaknath v. State of Punjab (1967) [AIR 1967 SC 1643.]

In Golaknath, the Supreme Court held that Parliament could not amend fundamental rights under Article 368. The Court viewed fundamental rights as immutable and beyond the scope of legislative alteration. It departed from earlier decisions and declared that the amending power of Parliament is subject to judicial scrutiny.

This case set the stage for the eventual evolution of the basic structure doctrine in Keshavananda Bharati. The judgment focused heavily on safeguarding civil liberties, particularly in a political context where Parliament had begun exercising vast powers under the guise of amendments.

Although this decision was overruled in Keshavananda, it remains crucial for introducing limitations on amending power and championing individual rights as central to constitutional governance.

viii. Marbury v. Madison (1803, U.S. Supreme Court) [5 U.S. 137 (1803).]

Marbury v. Madison is a landmark American case that established the doctrine of judicial review. In this case, the U.S. Supreme Court, led by Chief Justice John Marshall, held that it had the power to review laws passed by Congress and strike them down if found unconstitutional.

The judgment emphasized that the Constitution is the supreme law of the land and that the judiciary has the authority to interpret and enforce it. Marshall famously stated, "It is emphatically the province and duty of the judicial department to say what the law is."

This principle of judicial review laid the foundation for constitutional supremacy and has influenced legal systems worldwide, including India. It reinforces the Rule of Law by empowering courts to act as guardians of the Constitution and arbiters of legality. [*5 U.S. 137 (1803).*]

5. Comparative International Analysis

The Rule of Law is interpreted and implemented differently across legal systems. In the United States, the principle of judicial review was firmly established in *Marbury v. Madison* (1803), where courts acquired the power to nullify laws inconsistent with the Constitution. U.S. jurisprudence strongly protects civil liberties through its Bill of Rights and provides extensive due process protections.

In the United Kingdom, the Rule of Law operates within an uncodified constitutional framework. It is upheld through conventions, common law, and legislative supremacy. The Human Rights Act 1998 and the role of the judiciary maintain a robust legal culture where government powers are subject to legal constraints.

Germany offers a civil law model under the *Grundgesetz* (Basic Law), where the idea of *Rechtsstaat* (legal state) guarantees constitutional supremacy, proportionality, and judicial review. The Federal Constitutional Court serves as a guardian of constitutional principles, including human dignity and equality.

In Australia, the High Court enforces Rule of Law through strict constitutional interpretation and judicial independence. Landmark decisions related to Indigenous rights and political freedom reinforce the rule-based governance structure.

China recognizes the Rule of Law in theory (*fazhi*) but often practices "Rule by Law," where the ruling Communist Party's directives override judicial autonomy. While legal reforms have aimed to improve efficiency and predictability, party dominance remains a significant obstacle.

India, meanwhile, combines elements of common law with constitutional supremacy. Despite progressive judgments and a written Constitution, challenges remain due to bureaucratic opacity, delayed justice, and political misuse of power.

Together, these comparisons demonstrate that while the principle is universal in aspiration, its implementation is deeply shaped by each country's legal traditions, political culture, and institutional strength. [*5 U.S. 137 (1803).*]

6. Significance & Importance of Rule of Law

The Rule of Law forms the bedrock of any democratic society. It ensures that governance is conducted according to laws, not whims. It upholds transparency, fairness, and accountability at every level of the state.

Firstly, it guarantees ****legal equality****, meaning all individuals—citizens, ministers, and judges—are equally subject to the law. This upholds fairness and reduces institutional corruption.

Secondly, it ensures ****judicial accountability****. Through mechanisms like judicial review, the courts check arbitrary or unconstitutional legislative and executive actions, safeguarding civil liberties.

Thirdly, Rule of Law promotes ****social justice****. It empowers marginalized groups to claim their rights through legal avenues. Free legal aid, PILs, and human rights commissions operate within this framework.

Fourthly, it encourages ****economic development****. A stable legal environment attracts investment, guarantees contract enforcement, and promotes orderly transactions, thereby reducing economic uncertainty.

Fifth, it strengthens ****human rights protection****. Articles 14, 19, and 21 of the Indian Constitution derive full meaning only through this principle. For instance, in *K.S. Puttaswamy v. Union of India* (2017), privacy was recognized as a core individual liberty under the law.

Sixth, it reinforces ****accountability of public officials****. The Lokpal Act, RTI Act, and auditing mechanisms are legal instruments designed to check the misuse of state power.

Lastly, it promotes **national integrity** by embedding legal discipline within state institutions and preventing arbitrary state behavior. The Rule of Law is not merely a procedural ideal but a structural guarantee for sustaining constitutional democracy. *[(2017) 10 SCC 1.]*

7. Recent Issues & Global Violations

Contemporary global events reveal several setbacks to the Rule of Law. In India, the 2023 Manipur violence showcased the state's failure to uphold citizens' rights amid ethnic conflict. Delayed police action, political silence, and selective justice drew criticism from civil society and courts alike.

The **Pegasus spyware controversy** raised questions about illegal surveillance and state overreach. With journalists, activists, and opposition leaders allegedly targeted, concerns emerged over privacy violations without due legal process.

In the **Kashmir region**, recurrent internet shutdowns and preventive detentions under the Public Safety Act (PSA) demonstrate excessive executive power without proportional safeguards.

Internationally, the **Russia–Ukraine conflict (2022)** disrupted the Rule of Law globally. The International Court of Justice (ICJ) and International Criminal Court (ICC) initiated investigations into war crimes, calling for legal accountability in wartime.

In **Israel's ongoing conflict in Gaza**, mass civilian casualties and infrastructure destruction raised legal questions under international humanitarian law and UN protocols.

China's **crackdown in Hong Kong** via the National Security Law is widely regarded as a direct erosion of the Rule of Law. Dissent suppression and trial opacity have global legal implications.

These developments highlight how even constitutional systems face challenges from authoritarian impulses, state secrecy, and misuse of law for political gain.

8. Legal Remedies, Human Rights Frameworks & Enforcement

In India, the Rule of Law is reinforced by constitutional remedies, statutory authorities, and judicial processes:

i. Writ Jurisdiction: Articles 32 and 226 empower citizens to approach the Supreme Court or High Courts for enforcement of rights via writs like Habeas Corpus, Mandamus, Certiorari, Quo Warranto, and Prohibition.

ii. Judicial Review: The doctrine enables courts to invalidate executive or legislative actions inconsistent with the Constitution.

iii. National Human Rights Commission (NHRC): Established under the Protection of Human Rights Act, 1993, it investigates human rights violations, including custodial deaths and abuse of power.

iv. Public Interest Litigation (PIL): Indian courts have liberalized standing rules, allowing NGOs and citizens to seek redress for community-wide rights violations.

v. Legal Services Authorities Act, 1987: Provides free legal aid to marginalized individuals.

vi. RTI Act, 2005: Enables citizens to demand accountability and transparency in public administration.

vii. Lokpal and Lokayuktas: These anti-corruption bodies investigate abuse of public office, further anchoring institutional accountability.

Together, these tools ensure legal redressal, prevent power abuse, and promote democratic governance.

9. Conclusion

The Rule of Law serves as the constitutional conscience of modern democracies. It is not merely a technical ideal but a political and moral imperative that ensures fairness, accountability, and justice. In India, the Supreme Court has played a pivotal role in nurturing this doctrine through transformative judgments. Nevertheless, its full realization demands

structural reforms, judicial independence, and vigilance against creeping authoritarianism. Globally, sustained pressure on governments to uphold civil liberties and legal order is essential. A vigilant citizenry, empowered judiciary, and responsive administration are the cornerstones of Rule of Law.

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