RULE OF LAW: TRACING INDIA'S JOURNEY FROM ANCIENT TO MODERN SYSTEM OF GOVERNANCE

Dr. Gayatri N M, Assistant Professor, CMR University School of Legal Studies

Chanchal Dagur, CMR University School of Legal Studies

ABSTRACT

The "Rule of Law" idea has been a bedrock of Indian governance, dating back to ancient times and developing over successive periods of history into the contemporary constitutional dispensation. The paper traces India's distinctive experience, starting with ancient legal culture based on Dharma, Smritis, and customary law, focusing on justice, equity, and accountability. It analyzes how these native principles set the ground ethos for government, affecting the rule of kings and local communities as well. With the establishment of colonial rule, the British brought a more formalized and codified legal system, greatly transforming India's governance framework while also infusing the Western concept of the Rule of Law. After independence, India's Constitution came as a contemporary affirmation of this time-tested principle, strongly affirming the supremacy of law, equality before the law, and safeguarding of fundamental rights. Tracing this path from ancient jurisprudence to modern legal standards, the paper shows how India's experience exhibits continuity and change, giving rise to a dynamic and adaptive framework of governance under the Rule of Law. The research also examines critically the difficulty of achieving fully this principle in practice and mentions the efforts currently being made to harmonize classical values with contemporary democratic ideals.

INTRODUCTION

The Rule of Law, something long considered one of the mainstays of democratic government in our time, is not new to India and not a purely Western concept foisted upon us by colonial power. Its ethos has lived within Indian civilization from earliest times and lies deeply ingrained in the values of Dharma a precept which governed kings as much as subjects[1]. As Mahatma Gandhi once averred, "The true source of rights is duty. This bold statement echoes contemporary constitutional values, where law is supreme over rulers[2]. Kautilya's pragmatic approach to rule, reconciling tough rules with social welfare, demonstrates an early effort at achieving what we now see as the Rule of Law[3].

The Manusmriti, wrongly interpreted only as a strict social code, also put great emphasis on the accountability of rulers: it ordained that a king who transgressed Dharma would become illegitimate[4]. Justice was not viewed as the right of the powerful but as a sacred duty towards society. As Patrick Olivelle, a foremost scholar of Indian legal history, writes in his book "The Dharmaśāstra: An Intellectual History[5]", ancient Indian law was "dynamic, debated, and constantly reinterpreted," an indication of a society that was seeking order based on ethical principles rather than the exercise of arbitrary power.

In the medieval era, particularly under the Delhi Sultanate and the Mughal Empire, administration borrowed from Islamic legal traditions like Shariat and Mazalim Courts (grievance courts)[6]. British colonialism came with a seismic shock. The British brought with them the system of common law, courts, and the concept of legal equality — but discriminatingly. Philosophers such as Granville Austin in "The Indian Constitution: Cornerstone of a Nation"[7] contend that laws of colonial rule, while offering formal equality, also dismantled India's indigenous, community-centred systems for resolving disputes.

[1] Chatterjee, C., 1995. Values in the Indian ethos: An overview. Journal of Human Values, 1(1), pp.3-12.
[2] Muniapan, B., 2008. Kautilya's Arthashastra and perspectives on organizational management. Asian Social Science, 4(1), pp.30-34.
[3] Shamasastry, R., 1915. Kautilya's Arthashastra.
[4] Sinha, N., 2017. Manu: Social Laws. Indian Political Thought, p.18.
[5] Olivelle, P. and Davis, D.R. eds., 2018. Hindu law: a new history of Dharmaśāstra. Oxford University Press.
[6] Ghias, S.A., 2015. Defining Shariʿa: The Politics of Islamic Judicial Review (Doctoral dissertation, UC Berkeley).
[7] Austin, G., 2021. The Indian constitution: Cornerstone of a nation.

ANCIENT INDIA: DHARMA AS PROTO-RULE OF LAW

Concept of Rule of Law during ancient India was not Western-sense coded, but was highly ingrained within the societal moral and philosophical underpinnings through Dharma. Dharma, an interwoven word resisting precise translation, describes the concepts of duty, righteousness, justice, and cosmic order[8]. The Mahabharata, specifically the Shanti Parva, gives one of the earliest statements of this principle[9]. In a very interesting conversation between Bhishma and Yudhishthira, it is posited that a king has to rule by Dharma, else he loses his right to rule[10]. Bhishma recommends: "It is Dharma which brings prosperity, and not otherwise. Therefore, one should never give up Dharma due to desire, fear, or anger."

Kautilya's Arthashastra (circa 300 BCE) is a milestone in ancient political and legal thought[11]. Kautilya stipulates that the king has to act in terms of Dharma (moral law), Nyaya (justice), and Vyavahara (customary practice)[12]. In Book I, Chapter 4, Kautilya prescribes, "In the happiness of his subjects lies the king's happiness; in their welfare his welfare.[13]" Another foundational text, the Manusmriti (c. 200 BCE), legislates laws and obligations for various classes but also establishes the superiority of Dharma over the ruler[14]. In Chapter VII, Manusmriti prescribes that the king should follow Dharma and safeguard the people from internal and external dangers. The king who goes against Dharma, it cautions, invites ruin. The Manusmriti's insistence that the king must consult with learned Brahmins and act within the bounds of justice further emphasizes that authority is subject to law and not above it[15]. Donald R. Davis, in his researches into Hindu law[16], emphasizes that ancient Indian law was essentially pluralistic and community-oriented but deeply rooted in the conviction that law must be for the benefit of society. Historical practice provides examples further clarifying the manner in which Dharma acted as a restraint on power. Ashoka the Great (268–232 BCE), India's greatest

[8] Naik, R.K., 2023. Relevance of Duty in Reference to Dharma: A Jurisprudential Perspective. Part 2 Indian J. Integrated Rsch. L., 3, p.1.
[9] Garg, S., 2004. Political ideas of shanti parva. The Indian Journal of Political Science, pp.77-86.
[10] Hiltebeitel, A., 2001. Rethinking the Mahabharata: a reader's guide to the education of the dharma king. University of Chicago Press.
[11] Suresh, R. ed., 2021. Arthashastra of Kautilya: Relevance in the 21st Century. Vij Books India Pvt Ltd.
[12] Jhingran, S., 2010. Modern Western Conception of Justice as Equality before the Law and Dharmasastras. Applied Ethics and Human Rights: Conceptual Analysis and Contextual Applications, pp.109-26.
[13] Sihag, B.S., 2007. Kautilya on administration of justice during the fourth century BC. Journal of the History of Economic Thought, 29(3), pp.359-377.
[14] Meena, S.L., 2004. RELATIONSHIP BETWEEN STATE AND DHARMA IN MANUSMRITI. The Indian Journal of Political Science, pp.29-40.
[15] Jaishankar, K. and Halder, D., 2019. Criminal Justice Tenets in Manusmriti. Routledge Handbook of South Asian Criminology.
[16] Davis, D.R., 2010. A historical overview of Hindu Law. Hinduism and Law: An Introduction, pp.17-27.

emperor, espoused the doctrine of Dhamma (a Prakrit usage of Dharma) following the gory Kalinga War[17]. His edicts, chiseled on pillars and boulders throughout his dominions, lay stress on kindness, non-violence, and subject-welfare. In Rock Edict XIII, Ashoka proclaims his profound regret over violence and his adherence to equitable rule[18]. Historian Romila Thapar points out that Ashoka's Dhamma was not a religious dogma but a policy of moral rule to preserve social harmony an unmistakable harbinger of Rule of Law principles that prioritize the protection of individual dignity[19].

Similarly, the Vedic tradition of sabhas (assemblies) and samitis (councils) in Vedic society was a participatory approach to governance. While exclusive to elites, these institutions were precursors to collective deliberation and consensus, albeit limited to their members[20]. The king, in most instances, was counselled by councils, indicating that power was mediated by norms and consultations and not by sheer will. Still, ancient India's legal system had its flaws. Dharma was frequently caste-bound, which meant unequal rights and privileges depending on varna (class). People like Dr. B.R. Ambedkar criticized that whereas Dharma protected justice in principle, it actually perpetuated social hierarchies[21]. Still, it cannot be denied that the ideal of the rulers being ethically obligated to a higher law existed centuries before Western legal systems.

Contrary to the subsequent colonial perspective that India did not possess "law" in the conventional sense, new scholarship refutes this fallacy. Robert Lingat, in The Classical Law of India, maintains that the Indian tradition evolved an astoundingly developed legal theory focusing on the search for justice, not just on the command of the sovereign[22]. In a certain way, India did not "borrow" the Rule of Law from the British; instead, it adapted and reinterpreted a local commitment to lawful rule.

MEDIEVAL INDIA: LEGAL PLURALISM AND MORAL GOVERNANCE

The medieval Indian historical period, approximately from the 8th to the 18th century, was a

[17] Samrat, M., Ashoka The Great.
[18] Jayaram, K., 2009. Voices in Stone'Emperor Ashoka's Stone Edicts. Le Simplegadi, (7), pp.17-23.
[19] Thapar, R., 1968. Interpretations of ancient Indian history. History and Theory, 7(3), pp.318-335.
[20] Ghoshal, U.N., 1960. Some Aspects of Ancient Indian Political Organization. Cahiers d'Histoire Mondiale. Journal of World History. Cuadernos de Historia Mundial, 6(1), p.223.
[21] Puri, B., 2022. Impartiality and Samdarshita: Ambedkar and Gandhi on Justice. In The Ambedkar–Gandhi Debate: On Identity, Community and Justice (pp. 179-230). Singapore: Springer Nature Singapore.
[22] Davis Jr, D.R., 2000. The boundaries of law: Tradition,‘custom,’and politics in late medieval Kerala. The University of Texas at Austin.

time of extraordinary legal pluralism and ongoing focus on moral rule[23]. In contrast to the later colonial imposition of centralized, monolithic legal systems, medieval India was marked by a dynamic intermixing of several legal traditions Hindu, Islamic, customary, and local commonly negotiated in shared arenas. Governance at this time continued to be strongly anchored in moral values, albeit these values were now being translated within new religious, political, and cultural worldviews. The Muslim conquest of India, starting with the Delhi Sultanate (1206–1526) and then the Mughal Empire (1526–1857), brought Sharia (Islamic law) into the legal fabric of India. But instead of replacing pre-existing legal norms, medieval monarchs tended to integrate them, creating a multifaceted mosaic of legal systems[24]. As historian Richard Eaton reminds us, medieval Indian monarchs were pragmatic in their rule, acknowledging the need to adapt to the diversity of their subjects. Sharia mainly governed Muslims, whereas non-Muslim communities, particularly Hindus, were still ruled according to their respective religious laws mainly based on the Dharmashastra tradition and local customs[25].

The Fatawa-i-Alamgiri, a 17th-century compilation under Emperor Aurangzeb, is a prime example of the Islamic legal corpus in India. Designed as a complete code on the basis of Hanafi jurisprudence, it still recognized the continuance of non-Muslim laws for non-Muslim subjects[26]. Scholars such as Asifa Quraishi-Landes contend that this pragmatic coexistence is a mature recognition of legal pluralism much earlier than it became a trendy theory in contemporary jurisprudence[27]. But the principle that rulers themselves were held to be bound by moral and ethical norms held on. Medieval Indian political philosophy, both Islamic and Indic, believed that the legitimacy of a sovereign lay in his compliance with justice (adl in Islamic parlance, dharma in Hindu philosophy). The Sultanate monarch Alauddin Khalji (1296–1316), who was famous for his market reforms and administrative innovations, legitimized much of his draconian economic policy by invoking the need to safeguard the poor

[23] Benton, L., 2011. Historical perspectives on legal pluralism. Hague Journal on the Rule of Law, 3(1), pp.57-69.
[24] Jha, M.K., South Asia, 1400–1800: The Mughal Empire and the Turco-Persianate Imperial Tradition in the Indian Subcontinent. Empire in Asia: A New Global History, 1, pp.141-70.
[25] TAIUDDIN, F., 2002. FROM SUNNA TO SMRITI: A ROADMAP of RELIGIOUS TRADITIONS. National Law School of India Review, 14(1), p.2.
[26] Wadoodi, M., 1992. The Juristic Expression of the Rules of Marriage as Presented in the Fatawa Alamgiri:(17th Century India). The University of Manchester (United Kingdom).
[27] Wadoodi, M., 1992. The Juristic Expression of the Rules of Marriage as Presented in the Fatawa Alamgiri:(17th Century India). The University of Manchester (United Kingdom).

and maintain social order values based on the idea of just rule[28].

The Mughal Empire of Akbar (1556–1605) provides perhaps the most instructive instance of moral rule combined with legal pluralism. Akbar's Sulh-i-Kul policy of universal peace was an expression of a vision of government that went beyond religious differences. In his court, scholars from various traditions Muslim, Hindu, Jain, Zoroastrian, and Christian were received, and jurisprudence was guided by principles of tolerance, dialogue, and moral responsibility[29]. The courts records such as the Ain-i-Akbari by Abul Fazl attest to how Akbar worked towards having a legal framework whereby justice (insaf) took precedence, and where monarchs were regarded as trustees of the good of the people more than as just absolute rulers[30]. Abul Fazl, in his philosophical tome Akbarnama, stresses that kingship must be exercised through restraint, wisdom, and compassion. He writes, "A king is the shadow of God on earth," implying that royal power is divinely sanctioned but contingent upon conformity to moral obligation[31]. This vision strongly appeals to the ancient Indian belief that rule should be based on Dharma adapted to the multi-cultural circumstances of medieval India.

Notably, local courts and village panchayats remained operating independently during the medieval ages. Disputes were settled in these community-based institutions as per local norms and practices, which integrated religious tenets with pragmatic solutions. As legal historian Marc Galanter remarks, India's medieval legal culture was one of multiple authorities in which law was not an all-encompassing centralized decree but a lived reality negotiated through daily social routines[32]. Sufism also played a crucial role in defining the ethos of moral rule. Sufi saints such as Nizamuddin Auliya stressed justice, compassion, and service to mankind as qualities that were intrinsic to rulers[33]. In one celebrated tale, when Sultan. The ethical stature of such personalities tended to provide a silent check on state transgressions, underscoring the norm that power must be yielded within moral limits.

[28] Ali, M.Y., 2019. Understanding Political Evolution in Early Medieval South Asia: A Comparative Analysis of Political Management of Ala-al-Din Khalji (r. 1296-1316) and Muhammad Bin Tughlaq (r. 1325-1351). Pakistan Journal of Social Sciences, 39(4), pp.1541-1548.
[29] Moin, A.A., 2022. Sulh-i kull as an oath of peace: Mughal political theology in history, theory, and comparison. Modern Asian Studies, 56(3), pp.721-748.
[30] ibn Mubārak, A.A.F., 1873. The Ain i Akbari. Asiatic Society of Bengal.
[31] Fazl, A.Ł., 2015. ✧ Akbar Nama✧. In Voices of South Asia (pp. 91-98). Routledge.
[32] Galanter, M., 1972. The aborted restoration of 'indigenous' law in India. Comparative Studies in Society and History, 14(1), pp.53-70.
[33] Nizami, S., 2021. Sufi Saints of India: The Role of Hazrat Nizamuddin Aulia in Indian Nation Building.

COLONIAL ENCOUNTER: CODIFICATION AND CONTRADICTIONS

The colonial experience between India and Britain brought into being a revolutionary but deeply paradoxical — era in India's legal past. The British codification project pursued since the late 18th century had aimed at replacing India's plural legal traditions with a uniform, centralized legal order based on English conceptions of the "Rule of Law.[34]" But this legal modernization came into conflict repeatedly with India's indigenous tradition, and these tensions had a deep impact on India's legal culture even today.

When the British East India Company initially took on administrative authority following the Battle of Plassey (1757), it was confronted with a daunting legal landscape[35]. Sir William Jones, an early judge of the Supreme Court of Calcutta, memorably described India's legal customs as "a mass of contradictory customs and obsolete regulations" that had to be rationalized[36]. Driven by Enlightenment values and a utilitarian ideal, the British launched a monumental codification exercise to impose "order" on what they viewed as a chaotic system. The process of codification was regularized through great legislative endeavors. The Indian Penal Code of 1860, drafted by Lord Macaulay, exemplified the colonial ambition to impose a uniform legal framework across India[37]. Macaulay's vision was heavily influenced by Benthamite utilitarianism a belief that laws should maximize societal happiness through rational, systematic design.

At the level of personal law marriage, property, and matters religious the British ironically respected religious identities. Hindu law was codified by selective interpretations of ancient texts such as the Manusmriti, and Muslim law was mediated by colonial understandings of Sharia[38]. This resulted in the hardening of "Hindu Law" and "Muslim Law" as static, discrete concepts, over-looking the dynamic, changing character of indigenous traditions. As Bernard Cohn[39] explains in his classic study Law and the Colonial State in India, the colonial codification enterprise tended to invent what it only claimed to document. The tensions of the

[34] Shapiro, B., 1974. Codification of the laws in seventeenth century England. Wis. L. Rev., p.428.
[35] Williams, M., 2011. Imperial Venture: The Evolution of the British East India Company, 1763-1813. The Florida State University.
[36] Young, R., 2012. Sir William Jones and the translation of law in India. In Reading The Legal Case (pp. 80-89). Routledge.
[37] Wright, B., 2014. Macaulay's India law reforms and labour in the British Empire. In Legal Histories of the British Empire (pp. 218-233). Routledge.
[38] Menski, W., 2008. Hindu law: Beyond tradition and modernity. Oxford University Press.
[39] Cohn, B., 1985. Law and the colonial state in India. Wenner Gren Foundation for Anthropological Research.

colonial legal experience were especially sharp when it came to customary law. In provinces such as Punjab, British courts frequently favored "custom" over Hindu or Islamic law codified on paper, formalizing it by means of compendia such as the Punjab Customary Law Compilation[40]. Anthropologist Nicholas Dirks observes that the colonial officials' preoccupation with textual certainty resulted in the reification of dynamic social practices into fixed legal categories[41]. The Ilbert Bill controversy of 1883, which sought to permit Indian judges to try British subjects, brought out the underlying racial fears of the colonial elite[42]. British civilians, however, violently resisted the Bill, laying bare the shallowness of the claims, made by the colonizers, regarding legal equality.

However, the colonial judiciary did generate some modernizing tendencies which later contributed meaningfully to India's constitutional evolution. The founding of the Supreme Court of Calcutta (1774) and the High Courts (1861) introduced judicial independence and procedural formality[43]. Indian attorneys like Dadabhai Naoroji, Badruddin Tyabji, and Motilal Nehru were products of this system, employing the same weapons of Western legalism to call for rights and defy colonial power. This produced a dualism in which law was perceived as both a tool of freedom and an alienating imposition. The other important dimension was the development of public interest litigation and constitutionalism towards the end of the colonial era. Cases like Ramesh Thapar v. State of Madras (1950) [44] have their origins in controversies over civil liberties that had started during the colonial years. Groups like the Indian National Congress habitually used the rhetoric of "Rule of Law" against the arbitrary detentions and censorship by the colonial state.

CONSTITUTIONAL INDIA: REBIRTH OF RULE OF LAW

The acceptance of the Constitution of India in 1950 was a milestone rebirth of the "Rule of Law" as the organising principle of governance[45]. Following centuries of indigenous tradition, colonial codification, and nationalist struggle, free India made a conscious choice to found a sovereign, democratic republic based on the values of justice, equality, liberty, and fraternity.

[40] Cohn, B.S., 2021. Colonialism and its forms of knowledge: The British in India.
[41] Dirks, N.B., 1993. The hollow crown: Ethnohistory of an Indian kingdom. University of Michigan Press.
[42] Dobbin, C., 1965. The Ilbert bill: A study of Anglo-Indian opinion in India, 1883.
[43] Ravindran, S., 2008. THE JUDICIARY. Madras, Chennai: A 400-year Record of the First City of Modern India, 1, p.478.
[44] Ramesh Thapar v. State of Madras, AIR 1950 SC 124
[45] Thiruvengadam, A.K., 2017. The constitution of India: A contextual analysis. Bloomsbury Publishing.

The Constitution was not a legal document in the ordinary sense it was, as Granville Austin called it, a "social revolution" in itself — a grand effort to reorganize Indian society using the tools of law and government[46].

The makers of the Indian Constitution were well aware of India's complicated legal inheritance. Dr. B.R. Ambedkar, Chairman of the Drafting Committee, eloquently characterized the Constitution as "both a political and a social contract," aimed at establishing a nation where "law is the king of kings[47]." Taking cues from varied sources ranging from the Government of India Act, 1935, the American Bill of Rights, the Irish Directive Principles, and ancient Indian precepts of Dharma the Constituent Assembly endeavored to develop a distinctive Indian paradigm of the Rule of Law. Central to this resurgence was the explicit enthralling of the primacy of law. Article 14 of the Constitution assured "equality before the law" and "equal protection of the laws," recalling A.V. Dicey's axiomatic formulation of the Rule of Law[48]. Contrary to the colonial regime, in which law tended to be used to entrench hierarchies, the Constitution aimed to establish law as the protector of human dignity and basic rights. Justice P. N. Bhagwati would later note in Maneka Gandhi v. Union of India (1978)[49], India's Rule of Law is substantive justice preventing the laws from being unfair, arbitrary, and unjust rather than merely formal legality. Emphasizing the judiciary's essential part in protecting citizens against executive or legislative excesses, Dr. Ambedkar went so far as to term Article 32 "the very soul of the Constitution. " Lacking in ancient and colonial India, this judicial review system came to symbolize a clear dedication to constitutional supremacy.[50]

This vision is reflected in the Directive Principles of State Policy (Part IV of the Constitution)[51]. Though non-justiciable, these ideas help the State to enact legislation addressing inequalities and promoting social justice. The framers understood that the formal Rule of Law would be empty without tackling entrenched socioeconomic inequality. For

[46] Khosla, M., 2020. India's founding moment: The constitution of a most surprising democracy. Harvard University Press.
[47] Dutta, A., 2021. Dr. Babasaheb Ambedkar-An Architect of the Constitution of India. International Interdisciplinary Research Journal (AIIRJ), p.7.
[48] Dicey, A.V., 1979. The Rule of Law: Its Nature and General Applications. In Introduction to the Study of the Law of the Constitution (pp. 183-205). London: Palgrave Macmillan UK.
[49] Bhattacharya, S., 2022. Maneka Gandhi vs Union of India. Jus Corpus LJ, 3, p.76.
[50] Chakraborty, A., 2021. Writ Jurisdiction of the Supreme Court. Jus Corpus LJ, 2, p.935.
[51] Sanjay, S.D., 2021. Directive Principles of State Policy in Part IV of the Indian Constitution.

instance, Articles 38 and 39 require the State to achieve a social order where political as well as economic justice guides all national institutions.

The constitutional ideal of Rule of Law, however, has not been problem-free. Indira Gandhi's Emergency (1975–77),[52] imposed under Prime Minister Indira Gandhi, is a sobering reminder of the frailty of constitutional assurances. Censorship was imposed, basic liberties were suspended, and arbitrary arrests grew daily. Particularly in the infamous ADM Jabalpur v. , the judiciary Majority ruling supported the suspension of rights during the Emergency, therefore Shivkant Shukla (1976)[53] casea lso known as the Habeas Corpus casedid not apply the Rule of Law. Justice H. R. Holding the view that "even in the absence of Article 21, no civilized State can deprive a person of life or liberty without the authority of law," Khanna's solo dissent is itself a strong embodiment of constitutional morality. After the Emergency, there came a major post-Emergency judicial reassertion of the Rule of Law. Present-day India still struggles to address challenges to the Rule of Law, such as delays in the delivery of justice, executive usurpation, and judicial independence. Still very much in evidence, though, is the longstanding respect of constitutional principles. Justice D. Y. Chandrachud[54] so eloquently put it; "The Constitution is not a mere legal parchment; it is a living document that breathes life into the aspirations of our people ".

As Justice D.Y. Chandrachud so eloquently put it, "The Constitution is not a mere legal parchment; it is a living document that breathes life into the aspirations of our people[55]." The Rule of Law in India today, therefore, is not just a colonial legacy or an ancient echo but a dynamic, living force — strongly entrenched in India's democratic values and shaped continuously by the struggles of its people for justice, equality, and dignity. So, the path from ancient Dharma to colonial codification comes to its ultimate culmination in the constitutional assurance of the Rule of Law — a strong declaration that in India, law rules supreme not to assist rulers, but to enable the ruled.

[52] Prakash, G., 2019. Emergency chronicles: Indira Gandhi and democracy's turning point. In Emergency Chronicles. Princeton University Press.
[53] Singh, A.K. and Suta, S., 2021. ADM JABALPUR V SHIVKANT SHUKLA: CRITICAL ANALYSIS. VIDHIGYA: The Journal of Legal Awareness, 16.
[54] Shukla, G., Sakshi, K. and Singh, R.P., 2022. India's Quest to Preserve Its Constitutionalism. Issue 6 Indian JL & Legal Rsch., 4, p.1.
[55] Chandrachud, D.Y., 2024. Reformation Beyond Representation. CASTE: A Global Journal on Social Exclusion, 5(1), pp.1-17.

CONTEMPORARY CHALLENGES: RULE OF LAW UNDER THREAT?

Institutional autonomy's erosion is a major one. Often viewed as tools of political retribution, investigative agencies such as the Central Bureau of Investigation (CBI) and Enforcement Directorate (ED) have been charged with selective action. Vineet Narain in v. Union of India (1998)[56], the Supreme Court stressed independent operation of investigative agencies free from political interference[57]. Critics like Pratap Bhanu Mehta, however, argue that increasing executive control over institutions is a major departure from the ideal of an independent constitutional order[58].

Equally unsettling is the compromised judicial independence. In the ground-breaking case of S. P. Gupta v. Union of India (1981)[59], Commonly known as the First Judges' Case, the Supreme Court warned against executive preeminence in judicial appointments. Later, Supreme Court Advocates-on- Record Association v. Union of India (1993)[60] Collegium system emerged from to ensure judicial independence. Still, scholars like Nick Robinson have criticized the collegium's transparencylessness, claiming that although it shielded the courts from political pressure, it introduced new problems of elitism and secrecy.

The Rule of Law has also been endangered by arbitrary governmental action against dissenters. A norm has become sedition charges, preventive detention in relation to such laws as the Unlawful Activities (Prevention) Act (UAPA), and brutal arrests without speedy trial. In Kedar Nath Singh v State of Bihar (1962)[61] the Supreme Court confirmed sedition law but limited its application to deeds involving incitement to violence in But recent uses of sedition against nonviolent demonstrators show an unsettling expansion of governmental authority. Widely condemned Internet shutdowns during the farmers' protests and anti-CAA actions pose grave questions. In Anuradha Bhasin v Union of India (2020)[62]. The Supreme Court decided in that any limitations should be proportional since access to the Internet is a fundamental component of freedom of expression. Still, India leads the world in Internet shutdowns, which suggests a

[56] Vineet Narain v. Union of India, (1998) 1 SCC 226
[57] Poddar, M. and Nahar, B., 2017. 'Continuing Mandamus'-A Judicial Innovation to Bridge the Right-Remedy Gap. NUJS L. Rev., 10, p.555.
[58] Kapur, D., Mehta, P.B. and Vaishnav, M. eds., 2018. Rethinking public institutions in India. Oxford University Press.
[59] S.P. Gupta v. Union of India, 1981 Supp SCC 87
[60] Supreme Court Advocates-on-Record Ass'n v. Union of India, (1993) 4 SCC 44
[61] Kedar Nath Singh v. State of Bihar, AIR 1962 SC 955
[62] Anuradha Bhasin v. Union of India, (2020) 3 SCC 637

gap between court rulings and government initiatives. Targeted use of legislation to disparage underrepresented groups is another disturbing trend. Nationwide demonstrations were sparked by the Citizenship Amendment Act (CAA) and proposed National Register of Citizens (NRC). In Indian Young Lawyers Association v. State of Kerala (Sabarimala Case, 2018)[63], the Court underlined that nondiscrimination is basic to constitutional morality. But scholars like Madhav Khosla have criticized modern citizenship laws for undermining the secular and inclusive vision of the Constitution.

Another major obstacle is judicial delay and pendency. Decades can often delay the delivery of justice, eroding faith in judicial remedy. Hussainara Khatoon v Bihar (1979)[64]. Under Article 21, speedy trial was declared a constitutional right by the Court; exposed the plight of undertrial detainees. Still, more than four crore pending cases today show systematic flaws that especially impact the poor and underprivileged and thereby strengthen inequality before the law. Mass surveillance and data privacy concerns have also arisen. Revelations from Pegasus spyware leaks showed opposition officials, attorneys, and journalists being targeted. Justice K. S. Putaswamy (Retd.)vs. Union of India (2017)[65]. Under Article 21, the Supreme Court reaffirmed the right to privacy as an intrinsic feature of life and liberty in Still, the absence of a universal data protection legislation exposes individuals to governmental encroachment.

CONCLUSION

India's experience with the Rule of Law is not a straight narrative but a vibrant epic of determination, change, and hope. By basing the governance on fundamental rights, equality, liberty, and dignity, India transformed ancient moral ideals into contemporary, secular, and democratic terms. The judiciary's steadfast watchfulness, dynamic constitutional conversations, and forward-looking interpretations have preserved the ethos of Rule of Law despite unprecedented adversity.But this path is far from finished. As the realities of the present challenge the strength of institutions, and as social fault lines undermine the concept of legal equality, we are reminded that the Rule of Law is not a constitutional promise alone it is a lived ideal. It requires constant cultivation by public watchfulness, institutional integrity, and civic courage. As Justice H.R. Khanna had rightly said in his time, "Democracy and Rule of Law must go hand in hand; one cannot survive without the other." While remembering this subtle

[63] Young Lawyers Ass'n v. State of Kerala, (2019) 11 SCC 1
[64] Hussainara Khatoon v. State of Bihar, (1979) 3 SCR 532
[65] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1

equipoise, India has to continue to take its strength from ancient wisdom, derive lessons from historical struggles, and remain dedicated to the constitutional promise that power will always be curbed by law.Ultimately, the Rule of Law in India is not a bygone accomplishment — it is a continuous exercise in collective will. Its survival is not discretionary; it is existential for the future of the Indian republic.