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# LEGALITY VS. LEGITIMACY: A COMPARATIVE STUDY OF RULE OF LAW AND RULE BY LAW

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## ABSTRACT

The demarcation between the notions of Rule of Law and Rule by Law lies in the acts of governance themselves, which render them legal or legitimate. The constant debate between law and power raised serious questions on Constitutional principles, democratic governance, and political philosophy. While both conceptions involve the creation and operation of legal systems, they differ fundamentally in purpose, structure, and implications for human liberty. The Rule of law refers to a constitutional order in which legislation acts as a check on arbitrary power, assuring equality before the law, judicial independence, accountability of state institutions, and the safeguarding of fundamental rights. Rule by Law, on the other hand, refers to political rulers using legal procedures to legitimise control, repress dissent, and consolidate power, frequently while retaining the appearance of legality. The paper critically examines the philosophical basis, institutional characteristics, and practical implications of these two opposing legal paradigms. It concludes that the sustainability of democratic governance depends not only on the existence of laws but also on the ethical and constitutional values that govern their implementation. The contrast between the two remains important for assessing the health of modern democracies and the prospects of constitutional governance in the twenty-first century.

**Keywords:** rule of law, rule by law, constitutionalism, independent judiciary, democracy, civil liberty, constitutional morality.

## INTRODUCTION

*“The inevitable truth is that law is not static and immutable but ever increasingly dynamic and grows with the ongoing passage of time.”*

-S. Ratnavel Pandian, J.<sup>1</sup>

The social transformation of the welfare state is always accompanied by the law. Law can be either just or unjust depending on how it is applied.<sup>2</sup> It is a two-edged sword that can be used to provide justice or justify oppression. St. Augustine also stated that, “An unjust law is no law at all”.<sup>3</sup> The ongoing battle for authority in India has generated fundamental questions about whether citizens are ruled by the Rule of Law or the Rule by Law. Both concepts are thick and thin notions of the rule of law. The thin notion of the rule of law is further expressed as “Rule by Law”.<sup>4</sup> This question calls into question the concept of constitutionalism, which is also the spirit of the Indian Constitution. Constitutionalism holds that government authority and power are grounded in fundamental legal principles and exercised within a constitutional framework. This article will demonstrate how a law can be seen as legal without being legalised.

The terms Rule of Law and Rule by Law are similar but fundamentally different, representing diverse approaches to governance, justice, and political authority. The gap between them is not only intellectual; it decides whether citizens live in a system that upholds liberty or in a dictatorship that embraces legality to consolidate power. Throughout history, nations have fought to develop institutions that ensure fairness, accountability, and equal treatment under the law. While many governments claim to adhere to legal principles, only a few truly preserve the Rule of Law, and others use laws as tools of control, intimidation, and political convenience, resulting in Rule by Law. Understanding this dichotomy is crucial for assessing constitutional democracies, authoritarian government structures, and the potential of human rights in contemporary times.

Contemporary politics exemplifies the contradiction between these ideals. Emergency laws in some countries strengthen executive power during crises, such as terrorism, pandemics, or

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<sup>1</sup> Supreme Court Advocates on Record Association v. Union of India, (1993) 4 SCC 441.

<sup>2</sup> ML King Jr, Letter from Birmingham Jail, [http://www.africa.upenn.edu/Articles\\_Gen/Letter\\_Birmingham.html](http://www.africa.upenn.edu/Articles_Gen/Letter_Birmingham.html) (last visited May 13, 2026).

<sup>3</sup> AUGUSTINE, DE LIBERO ARBITRIO 1.5.11.

<sup>4</sup> Upendra Baxi, The Rule of Law in India, SUR - INT'L J. ON HUMAN RTS. (Aug. 22, 2017), <https://sur.conectas.org/en/rule-law-india/>.

political turmoil, while in others, they become problematic when governments exploit emergencies as permanent grounds for limiting freedoms. Under the guise of maintaining stability, some regimes have passed extensive surveillance legislation, reduced media independence, and diminished judicial autonomy. Such developments raise concerns that legal frameworks are being used as tools of political control. The problem for modern democracies is not merely to enact laws, but also to guarantee that such laws are consistent with constitutional morality and human rights.

## RULE OF LAW: A CONCEPTUAL UNDERSTANDING

*“The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law”*

- Dwight D. Eisenhower (34<sup>th</sup> U.S. President)

The fundamental basis of the concept of equality, *“Be you ever so high, the law is above you”*, lies on the bedrock of the rule of law.<sup>5</sup> The same principle was aptly stated by Lord Denning as *“Every person in land, no matter how powerful or high in status he may be, law will always be above them”*.<sup>6</sup> The concept of the Rule of Law emphasises the supremacy of law over all individuals and entities, including those who govern, to prevent arbitrariness and tyranny and to maintain checks and balances on such power.<sup>7</sup> In a significant decision, the court held that a fair, honest, and expeditious investigation is a precious consideration under the rule of law.<sup>8</sup> All persons within its periphery are subject to and accountable to just and fair legal norms. In this system, laws are enacted to foster justice, safeguard rights, and preserve social order without prejudice.<sup>9</sup> Courts operate independently, executive authority is constrained, and state conduct is guided by constitutional principles. That is why Sir Ivor Jennings said it, *“unruly horse”*.<sup>10</sup> Citizens may object to unlawful government behaviour, and there are legal remedies available to redress abuses of authority.

This Principle is inferred from *“la principe de legalite”* a French phrase that means authority

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<sup>5</sup> Vineet Narain & Others v. Union of India & Another, AIR 1998 SC 889.

<sup>6</sup> Gouriet v. Union of Post Office Workers, [1978] AC 435.

<sup>7</sup> Arvind Datar & Sanjay Jain, Rule of Law – A Basic and Eternal Principle, POPULAR MEDIA 80 (2023), <https://repository.nls.ac.in/popular-media/80> (last visited May 13, 2026).

<sup>8</sup> Vineet Narain, supra note 5.

<sup>9</sup> MATTHIEU BURNAY, CHINESE PERSPECTIVES ON THE INTERNATIONAL RULE OF LAW: LAW AND POLITICS IN THE ONE-PARTY STATE 39 (Edward Elgar 2018).

<sup>10</sup> IVOR JENNINGS, THE LAW AND THE CONSTITUTION (5th ed. 1959).

based on law. The philosophical roots of the Rule of Law can be traced back to ancient civilisations, but the concept gained modern significance through the works of philosophers and jurists such as Edward Coke, Aristotle, John Locke, Montesquieu, and Albert Venn Dicey (A.V. Dicey). Edward Coke is considered its originator, arguing that the king is under God and the law.<sup>11</sup> Aristotle claimed that law should take precedence over the inclinations of individual rulers.<sup>12</sup> Locke emphasised the preservation of natural rights while deriving its legitimacy from the consent of the governed.<sup>13</sup> Montesquieu argued that the separation of powers is necessary to prevent despotism.<sup>14</sup> Dicey later formulated the present notion of the Rule of Law, emphasising equality before the law and the absence of arbitrary authority. Dicey's concept is based on his book "*An Introduction to The Study of Law In The Constitution*," published in 1885, in which he proposes three postulates: the Supremacy of law, Equality before the law, and the Predominance of a legal spirit.<sup>15</sup> These scholars collaborated to create a framework in which law became a shield for liberty rather than a tool of oppression.

## **RULE BY LAW: AN OVERVIEW**

In contrast, Rule by Law signifies the use of legal systems to preserve authority and repress resistance. In this concept, the law serves as a tool to suppress criticism, manipulate the legal process, exploit state machinery, and censor the media, while courts and officials appear to operate lawfully.<sup>16</sup> Authoritarian governments often rely on this to maintain the illusion of order and constitutionalism. Instead of resorting to open violence, they use legal processes to legitimise censorship, arbitrary detention, monitoring, and civil rights restrictions. Political opponents and journalists may be prosecuted or face legal repercussions, and courts may serve as extensions of government action. It often includes sophisticated constitutions and legal principles as symbols, even as it upholds justice in practice. Citizens obey laws not because they trust institutions, but because disobedience has serious consequences.

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<sup>11</sup> Prohibitions del Roy, (1607) 12 Co Rep 63.

<sup>12</sup> STEPHEN EVERSON TR., ARISTOTLE, THE POLITICS (Cambridge University Press 1988).

<sup>13</sup> PETER LASLETT ED., JOHN LOCKE, TWO TREATIES OF GOVERNMENT (Cambridge University Press 1988).

<sup>14</sup> DAVID WALLACE CARRITHERS ED., MONTESQUIEU, THE SPIRIT OF LAWS (University of California Press 1977).

<sup>15</sup> ROGER E. MICHENER ED., AV DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION (Liberty Fund 1982).

<sup>16</sup> Aikaterini Christina Koula, Strengthening the Rule of Law: The Necessity of Protecting Human Rights Defenders from Criminalisation, 26 HUM. RTS. L. REV. ngaf039 (2026).

Legality and legitimacy are frequently misconstrued in this framework. Actions may look legal, but they are not legitimate.<sup>17</sup> In this system, governments argue that their activities are legal simply because they are authorised by statutes passed under their control, even if such statutes contravene fundamental liberties and democratic values. The risks of Rule by Law are demonstrated by historical instances. For example, Nazi Germany passed various laws that legalised prejudice, persecution, and totalitarian rule that violate principles of justice and human dignity, although in theory they are legal.<sup>18</sup> Similarly, the United States' antebellum slave laws and apartheid in South Africa were based on a comprehensive legal system that institutionalised racial segregation and inequality. These examples demonstrate that legality cannot ensure fairness. A dictatorship may pass laws and follow procedures while perpetrating terrible abuses. The sheer existence of legislation does not imply the existence of the Rule of Law.

### **A COMPARATIVE ANALYSIS: RULE BY LAW AND RULE OF LAW**

There is a thin line between the Rule of Law and Rule by Law, yet they have a significant impact.<sup>19</sup> At a superficial level, they might look alike, but the inner layer of distinction can only be perceived through critical analysis. Below are a few notable distinctions between the two:

1. One of the most notable distinctions between the two is the relationship between authority and accountability. Under the Rule of Law, the government and its leaders must act in a manner that is accountable, transparent, and within constitutional limits, and their actions are subject to judicial scrutiny. Whereas, in Rule by Law, the actions look superficially legal, accountable, and within judicial norms, yet advance their own interests. In this, the actions are more authoritarian with judicial support and without meaningful debates.
2. Another important distinction is the independence of the judiciary. In the Rule of Law system, judges act impartially and are guarded against political pressure. Judicial review allows courts to overturn unconstitutional laws and defend individual rights. In contrast, under Rule by Law, judicial decisions are influenced by political pressure, intimidation, and administrative control, leading to biased rulings and a loss of public trust. When courts

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<sup>17</sup> TOM GINSBURG & TAMIR MOUSTAFA EDS., *RULE BY LAW: THE POLITICS OF COURTS IN AUTHORITARIAN REGIMES* (Cambridge University Press 2008).

<sup>18</sup> Lon L. Fuller, *Positivism and Fidelity to Law: A Reply to Professor Hart*, 71 HARV. L. REV. 630 (1958).

<sup>19</sup> Koula, *supra* note 16.

lose their independence, citizens lose one of the most crucial protections against state abuse.

3. Another crucial aspect of distinction is the handling of fundamental rights. Rights such as freedom of speech and expression, equality, religious liberty, and access to justice are well recognised and cannot be curtailed in democracies that follow the Rule of Law. Enacting any legislation for curtailing these constitutional protections would be subject to judicial review.<sup>20</sup> On the other hand, Rights are conditional and revocable in systems characterised by Rule by Law. Governments can frequently suspend civil liberties in the name of national security, morality, or public order, without meaningful oversight. Citizens remain vulnerable because legal protections are based on political convenience rather than long-term constitutional commitments.
4. The Rule of Law is inextricably linked with democracy, yet the two are not identical. In a democracy, citizens participate in government through elections and representation, and the Rule of Law upholds the principles of democracy. However, in a democracy, the principles of the Rule of Law can also be violated by ignoring minority rights, undermining the judiciary, or concentrating authority in an excessive manner. Constitutional democracies thrive when democratic legitimacy is balanced by legal constraints. Rule by Law frequently occurs when leaders use electoral popularity to erode institutions while presenting their actions as manifestations of popular will. In such cases, legality becomes a cover for dictatorial actions.
5. The social and economic growth of a country is also affected by the presence or absence of the Rule of Law. A reliable legal framework is the key to a country's long-term success. Investors, businesses, and regular residents want contracts to be carried out in good faith, property rights consistently protected, and corruption effectively controlled. In contrast, under Rule by Law, it is commonly based on political connections, unrestrained discretion and favouritism, leading to the erosion of public trust in the state machinery.
6. Civil society and free media are vital for the preservation of the rule of law. Independent media, academic institutions, human rights organisations, and public interest groups uncover abuses of power and call for accountability. Their work contributes to a democratic society by promoting transparency and insightful public discussion. Whereas Censorship,

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<sup>20</sup> Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.

restrictive legislation, and legal intimidation are common tactics that the government pursue while following Rule by Law to silence these voices. They may be accused of undermining national unity or public security simply for criticising official actions. At the end, it led to the breakdown of civil society, with a progressive deterioration of legal accountability and democratic standards.

7. Education also plays a significant role in upholding the rule of law. An educated and responsible citizen with legal consciousness and critical thinking can outrightly reject the authoritarian traits that lead to the misuse of legal and executive institutions. Thus, educational institutions bear a vital responsibility in promoting civic consciousness and ethical thinking. A culture that encourages critical thinking and public involvement is less subject to misinformation or fear-based manipulation.

Ultimately, the ideal distinction between Rule of Law and Rule by Law relies on morality. The law, which reflects justice, fairness, morality, independent judiciary, transparency, accountability and respect for human rights, will be obeyed without question of its legality.<sup>21</sup> Yet, governments are subject to constitutional constraints to protect citizens from arbitrariness. It reveals manipulations aimed at maintaining power. When institutions lose respect for preserving independent courts, protecting civil liberties, ensuring accountability, and maintaining public commitment to constitutional ideals, legality becomes divorced from justice, democracy comes at stake, and it is critical to future governance.<sup>22</sup> The rule of law is only a powerful defence against oppression for humanity, and Rule by Law serves as a reminder that legality without justice can devolve into tyranny.

## **EMERGING CHALLENGES TO JUSTICE AND GOVERNANCE: RULE OF LAW VS. RULE BY LAW**

The Rule of Law has emerged as an ultimate objective in the modern world, as evidenced by treaties, constitutions, and global organisations. The American Constitution, under Article VI, declared that the Constitution is the supreme law of the land<sup>23</sup>, a principle further confirmed by the case of *Marbury v. Madison*<sup>24</sup>, which introduced the concept of judicial review. After the

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<sup>21</sup> BURNAY, *supra* note 9.

<sup>22</sup> Koula, *supra* note 16.

<sup>23</sup> U.S. CONST. art. VI, cl. 2.

<sup>24</sup> *Marbury v. Madison*, 5 US (1 Cranch) 137 (1803).

Second World War, the United Nations has constantly highlighted the importance of just and transparent legal systems for maintaining peace, development, and human rights. To achieve it, the United Declaration of Human Rights have been adopted. International courts and especially human rights organisations are working around the clock to uphold legal responsibilities and protect vulnerable people from abuse. Nonetheless, conflicts persist due to the utilisation of governments' sovereign status to avoid international interference. Some states ostensibly uphold constitutional guarantees while systematically weakening them through political meddling, emergency resolutions, and selective enforcement, resulting in “*Autocratic legalism*”. In this aspect, the law acts as a mask to legalise autocratic powers<sup>25</sup>. This contradiction indicates that creating the Rule of Law requires more than drafting great legal documents; it also demands a genuine political culture of constraint and accountability.

In this contemporary era, the world is heading towards technological advancement and digitalisation. It has become more difficult to exercise power within the ambit of legal regulations. Tools such as digital surveillance, artificial intelligence, and mass data collection enable governments to exercise unprecedented control over populations. It can be termed as “*Digital Authoritarianism*”. Governments generally use illiteracy and uninformed notions to manipulate through “*informational autocracy*”. Informational autocracy refers to the disparity in political knowledge between the “informed elite” and the broader population.<sup>26</sup> No doubt, in law-abiding nations, these technologies are governed by judicial monitoring, privacy safeguards, and democratic discussion. However, under regimes characterised by Rule by Law, technological tools can increase authoritarian control by enabling continuous monitoring of political opponents, journalists, and activists. The legal justification for monitoring may appear sound on paper, but the lack of independent oversight makes such tactics a threat to civil liberties. As societies become more digital, ensuring legal responsibility will become progressively more critical.

## INDIAN DEMOCRATIC EXPERIENCE: RULE OF LAW VS. RULE BY LAW

India, being one of the largest democracies in the world, follows the Rule of Law, which is a basic structure of the constitution.<sup>27</sup> The Indian judiciary acts as the guardian and protector of

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<sup>25</sup> Ayşegül Kars Kaynar, *Autocratic Legalism vs. Lawfare*, VERFASSUNGSBLOG (2025), <https://verfassungsblog.de/autocratic-legalism-vs-lawfare/>.

<sup>26</sup> Sergei Guriev & Daniel Treisman, *Informational Autocrats*, 33 J. ECON. PERSPECT. 100 (2019).

<sup>27</sup> Kesavananda Bharati, *supra* note 20.

the Constitution. This is considered an essential feature of the constitution, but it is not defined or specifically mentioned in it. Despite having it, several illustrations can be seen which demonstrate both the Rule of Law and Rule by Law.

## 1. RULE OF LAW THROUGH JUDICIAL LENS

The concept of the rule of law and its horizon can be illustrated from various Apex Court pronouncements. In one of the most significant rulings, also known as the *death penalty case*, the court observed that the rule of law lies at the heart of the Constitution by excluding arbitrariness and unreasonableness.<sup>28</sup> The court further expanded its scope in *Mrs Veena Sethi v State of Bihar and Ors.*, by holding that the rule of law is for humanity for those who are ignorant, illiterate, downtrodden, poor and not only for those who can fight for their rights, can maintain the status quo to preserve their dominance.<sup>29</sup> In *E. P. Royappa v State of Tamil Nadu & Anr*, the court highlighted that “equality is antithetical to arbitrariness. They are sworn enemies, with one belonging to the rule of law and the other to the whim and caprice of an absolute monarch”.<sup>30</sup>

In one of the prominent pronouncements, *Maneka Gandhi v. Union of India*, the court broadened the notion of the rule of law by expanding it within the right to life and personal liberty, holding that any law affecting liberty must be just, fair, and reasonable.<sup>31</sup> The judgment of *Maneka Gandhi* laid the foundation for judicial activism in India<sup>32</sup> by expanding the restrictive approach of liberty established in the *AK Gopalan case*.<sup>33</sup> These judgments present the view that anything that violates individual freedom would violate the rule of law. Through this precedent, the court broadened its scope. In another pronouncement, the court held that the rule of law embodied the principle of judicial integrity with the separation of powers.<sup>34</sup> It was done to separate the judiciary from the executive, as Montesquieu stated. The essence of the rule of law requires that all state authorities, including executives, are bound by and obey the rules.<sup>35</sup>

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<sup>28</sup> *Bachan Singh v. State of Punjab*, (1982) 3 SCC 24.

<sup>29</sup> *Mrs. Veena Sethi v. State of Bihar & Others*, AIR 1983 SC 339.

<sup>30</sup> *E.P. Royappa v. State of Tamil Nadu & Another*, AIR 1974 SC 555.

<sup>31</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>32</sup> *Id.*

<sup>33</sup> *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

<sup>34</sup> *ADM Jabalpur v. Shivkant Shukla*, AIR 1976 SC 1207.

<sup>35</sup> *State of Bihar v. Rani Sonabati Kumari*, AIR 1961 SC 221.

In a landmark ruling commonly known as the decriminalisation of Section 377 of the Indian Penal Code, 1860, the court expressed the view that the rule of law necessitates just law to promote equality, liberty, and dignity in all its forms, and Section 377 presents an example of rule by law, which provides legitimacy to the state's arbitrary action.<sup>36</sup> The recent judgement of K.S. Puttaswamy (Aadhar Case) revisited the concept of the rule of law, stating that its essence is the prevention of arbitrary action, and that arbitrariness is its denial.<sup>37</sup> The implementation of the Right to Information Act 2005 is another classic example of the rule of law, ensuring the accountability of government institutions by limiting arbitrariness and promoting transparency.

Indian courts have played a pivotal role in maintaining the constitutional order. In one of its celebrated precedents, the Apex Court of India stated the role of the Bar in the construction of a “just society and Constitutional order”.<sup>38</sup> A lawyer is the first gatekeeper to encounter the client whose rights or dignity are shattered; therefore, it is his primary responsibility to provide justice. The importance of lawyers in imparting justice and maintaining the Rule of Law was also highlighted in All India Judges Association vs Union of India.<sup>39</sup> Therefore, this also becomes the responsibility of law school to nurture this noble idea in the students so that they can uphold the constitutional order in society.

These precedents imply that our Constitution establishes a liberal, substantive democracy, with the rule of law as a crucial and fundamental basis. It has its own internal morality founded on the dignity and equality of all humans. Individual human rights must be protected in order for the rule of law to prevail. They demonstrate how the Rule of Law protects citizens against arbitrary authority and ensures that justice prevails over majoritarian or political pressures.

## **2. RULE BY LAW: PRACTICAL REALITY**

At the same time, Indian society has witnessed rule by law, yet not in theory. This concept is based on the Latin phrase “Rex is Lex”, which means “King is Law”. History reveals instances in which the law was used to interfere in politics, resulting in the denial of the rule of law or the exercise of rule by law. The most notable example is the proclamation of an emergency during which fundamental rights were suspended, opposition leaders were imprisoned, and

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<sup>36</sup> Navtej Singh Johar v. Union of India, AIR 2018 SC 4321.

<sup>37</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2019) 1 SCC 1.

<sup>38</sup> Bar Council, Maharashtra v. M.V. Dabholkar, 1976 SCR (2) 48.

<sup>39</sup> All India Judges Association v. Union of India, (1992) 1 SCC 119.

press freedom was limited by legal means.<sup>40</sup> It shows how legality may be exploited to bolster executive power. At that time, several detainees filed habeas corpus petitions in court, challenging their incarceration.

The precedent of *ADM Jabalpur vs. Shivakant Shukla Etc.* examined comprehensively the question of whether Articles 21 and 226 of the Constitution can be suspended during a national emergency.<sup>41</sup> The court, in the majority opinion, adopted a restrictive approach to the rule of law, holding that it must operate within constitutional limits and that judicial power is limited when the legislature intends to lawfully abrogate the people's rights.<sup>42</sup> The majority opinion of *ADM Jabalpur's* case was later overruled in *K.S. Puttaswamy & Anr. v. Union of India & Ors*<sup>43</sup>. However, Justice H.R. Khanna, in his dissenting opinion, stated that the rule of law extends beyond natural and extra-constitutional rights. The right to life and personal liberty is a pre-constitutional right, and the State cannot deprive a person of their life or liberty without legal authority, even with Article 21 suspended.<sup>44</sup>

In contemporary India, discussions over the enforcement of legislation such as the Unlawful Activities Prevention Act, 1967, and the sedition provision under the old Indian Penal Code, 1860, have raised concerns about the abuse of legal power against activists, journalists, and political dissidents. However, the sedition statute has been removed from the new criminal laws, and a corresponding provision has been introduced by renaming section 152 of the *Bhartiya Nyaya Sanhita*, 2023. The constant use of the Prevention of Money Laundering Act 2002 due to its stringent procedure has become a burning issue of discussion and a classic case of overreaching executive power. The protracted internet shutdowns in Jammu and Kashmir following the repeal of Article 370 sparked debate over the balance between national security and civil liberties. These examples demonstrate that the sheer existence of a law does not ensure justice; rather, the true test of these fundamental measures of democracy lies in whether laws are employed to protect or control citizens.

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<sup>40</sup> 1975 Emergency: The Dark Age of Indian Democracy, *THE HINDU*, June 26, 2015, <https://www.thehindu.com/specials/in-depth/the-emergency-imposed-by-indira-gandhi-government/article60171433.ece1>.

<sup>41</sup> *ADM Jabalpur*, *supra* note 34.

<sup>42</sup> *Id.*

<sup>43</sup> Justice K.S. Puttaswamy, *supra* note 37.

<sup>44</sup> *ADM Jabalpur*, *supra* note 34.

## CONCLUSION

*“The bedrock of our democracy is the rule of law, and that means we have to have an independent judiciary, judges who can make decisions independent of the political winds that are blowing”*

- Caroline Kennedy

Concludingly, the distinction between Rule of Law and Rule by Law remains one of the twenty-first century's most pressing political issues. Despite the notion of the rule of law being imported from the British, it is well embedded in Indian democracy even before the Constitution was enforced. Nations may have constitutions, legislatures, and courts, but the crucial test is whether these institutions truly limit power and preserve human dignity. Citizens, attorneys, judges, intellectuals, journalists, and political leaders all bear responsibility for protecting constitutional ideals from degradation. The survival of freedom ultimately hinges on societies refusing to accept legality as an alternative to justice. Individuals live as citizens in countries where the Rule of Law prevails, with rights and accountable institutions. Individuals remain exposed to the ambitions of unchecked authority when Rule by Law prevails. Therefore, the preservation of the Rule of Law must remain a public commitment rather than a political campaign slogan. Democracies cannot presume that constitutional safeguards will be maintained automatically. Vigilance, civic participation, ethical leadership, and independent institutions are required to prevent arbitrary power from becoming the norm. The distinction between liberty and tyranny is commonly based on whether power regulates law or law regulates power.