

# UPSC PREPARATION

## Difference between Rule of law and Rule by law

Chief Justice of India, N V Ramana, views that Rule of law is what we fought for and Rule by law is an instrument of colonial rule. In the face of a pandemic, it's important to reflect on how the tension between the two defines the quality of justice.

### Rule of law

[Rule of law](#) means is that all laws apply equally to all citizens of the country and no one can be above the law. Any crime or violation of law has a specific punishment as well as a process through which the guilt of the person has to be established. It also says that no person shall be subject to harsh, uncivilized or discriminatory treatment even for the sake of maintaining law and order.

### Principles of Rule of law

A.V. Dicey, a Constitutional expert, had developed this concept and defined 3 principles that govern the rule of law.

- Absence of arbitrary power(supremacy of law)
- Equality before law(No one is above law)
- Predominance of legal spirit.

### Significance of Rule of law

Rule of law is a system where laws rule and not men. The following points highlight the significance of Rule of law

- It reverses the tyranny or anarchy
- It puts legal barriers to governmental arbitrariness
- It provides safeguards for the protection of individuals
- It gives freedom to the judiciary to control the executive who exceeds their jurisdiction
- Public welfare should be the dominant consideration

### Exceptions to Rule of law

Article	Explanation
105	<ul style="list-style-type: none"><li>• No member of <a href="#">Parliament</a> shall be liable to any proceedings in any court in respect of anything said or any vote given by him in parliament or any committee thereof</li></ul>
194	<ul style="list-style-type: none"><li>• No member of the legislature of a state shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the legislature or any committee thereof</li></ul>
361(1)	<ul style="list-style-type: none"><li>• The <a href="#">President</a> or the Governor is not answerable to any court for the exercise and performance of the powers and duties of his office.</li></ul>

361(2)	<ul style="list-style-type: none"> <li>No criminal proceedings shall be instituted or continued against the President or the Governor in any court during his term of office.</li> </ul>
361(3)	<ul style="list-style-type: none"> <li>No process for the arrest or imprisonment of the President or the <a href="#">Governor</a> of a State, Shall issue from any court during his term of office.</li> </ul>
361(4)	<ul style="list-style-type: none"> <li>No civil proceedings against the President or the Governor shall be instituted during his term of office in any court in respect of any act done by him in his personal capacity, whether before or after he entered upon his office, until the expiration of two months next after notice has been delivered to him.</li> </ul>
31-C	<ul style="list-style-type: none"> <li>Laws made by the state for implementing <a href="#">Directive Principles of State Policy (DPSPs)</a> contained in clause (b) or (c) of Article 39 cannot be challenged on the ground that they are in violation of Article 14.</li> <li>Supreme Court held that “where Article 31-C comes in, Article 14 goes out”.</li> </ul>

- Foreign sovereigns (rulers), ambassadors and diplomats enjoy immunity from civil and criminal proceedings.
- UNO and its agencies enjoy diplomatic immunity.

## Rule by law

- Rule by law means using law as a tool of political repression and enforcing it unequally on the parties, with a different set of rules favouring a few sections of the society.
- Rule by law can become an instrument of oppression. It can give legitimacy to the enactment of laws which may grossly violate basic human rights.

## Examples of Rule by law

- Britishers used “Rule by Law”, rather than “Rule of Law”, as it aimed at controlling the Indian subject. Our struggle for independence thus marked our journey towards the establishment of a state defined by the Rule of Law.
- Nazi Germany put Jews in concentration camps and thereafter sent them to the gas chambers. The justification offered was that there was a law which empowered such acts to be done. But that was rule by law, not Rule of Law.

## Frequently Asked Questions

### What is the difference between rule by law and rule of law. Write short answer?

Rule by law indicates that decisions are forced upon a citizenry, while Rule of law is to control the unlimited exercise of the power by the supreme lawmaking authority of the land. It is a just application of the law for everybody, keeping in mind that the law doesn't go against basic precepts of humanity.

### What is the importance of rule of law?

Rule of law empowers the citizens to live and work safely. It ensures that citizens are not subjected to arbitrary laws of the government and are protected against any abuse of power by the state.