



## DOCTRINE OF PROPORTIONALITY: SHOULD IT REPLACE REASONABLENESS IN INDIAN JUDICIAL REVIEW?

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### ABSTRACT

*Judicial review is a fundamental aspect of Indian constitutionalism, serving as an essential tool for overseeing the exercise of public authority and protecting fundamental rights. A crucial element of judicial review is the choice of the standard, which influences how intensively courts examine legislative and administrative actions. Historically, Indian courts have utilised the Wednesbury reasonableness standard, which is derived from English administrative law, allowing judicial interference only in instances of extreme irrationality or gross unreasonableness. While this method fosters institutional restraint, it has faced increasing criticism for failing to provide sufficient protection in cases where constitutional rights are restricted. In contrast, the principle of proportionality offers a more structured and rights-focused standard of review. Emerging from continental European legal traditions and now commonly employed in various constitutional systems, proportionality obliges courts to evaluate whether state actions serve a legitimate objective, maintain a rational connection to that objective, minimally infringe individual rights, and preserve a reasonable balance between public interests and private rights. The Indian Supreme Court has gradually embraced this doctrine, especially in cases related to fundamental rights, as seen in rulings like *Om Kumar v. Union of India*, *Modern Dental College v. State of Madhya Pradesh*, and *K.S. Puttaswamy v. Union of India*. This article performs a critical evaluation of the possibility of replacing reasonableness with proportionality as the primary standard for judicial review in India. By conducting a doctrinal analysis of legal precedents and studying comparative constitutional practices, the paper explores the conceptual distinctions between the two standards, their individual advantages and disadvantages, and their effects on judicial legitimacy and the separation of powers. It maintains that while proportionality provides enhanced transparency,*

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*accountability, and protection of rights, completely discarding reasonableness might not be advisable. Instead, the article suggests a balanced approach, where proportionality serves as the guiding principle for rights-based review, while reasonableness remains applicable.*

**Keywords:** Reasonableness Test, Doctrine of Proportionality, Fundamental Rights, Administrative Actions, Judicial Review.

## INTRODUCTION

The Indian Constitution establishes the doctrine of separation of powers among the three organs of the government: the legislature, the executive, and the judiciary. Each organ has its own function to perform. However, the same constitution grants the judiciary the power to review the constitutionality of acts performed by the other two branches. This is called Judicial Review. It is the power given to the Supreme Court and High Courts to examine laws and government actions for constitutional validity. It ensures the protection of fundamental rights and maintains checks and balances between branches of government. If any law or government action is found unconstitutional, the court has the power to strike down that act and declare it void. Courts derive their authority for judicial review primarily from articles 13, 32, 136, 226 and 227 of the Indian Constitution. Over time, judicial review has evolved from a narrow examination of legality to a more comprehensive assessment of the justification and proportionality of governmental actions, particularly in cases involving fundamental rights.

Within this context, the standard of review—the criterion used by courts to evaluate the legitimacy of state actions—holds significant importance. Two primary standards are prevalent in this discussion: reasonableness, prominently illustrated by the Wednesbury unreasonableness test, and the more modern principle of proportionality. The reasonableness standard usually sets a high bar for interference, allowing judicial involvement only when a decision is so absurd that no reasonable authority could have reached it. In contrast, proportionality mandates a detailed and substantive evaluation of whether the state's action aims for a legitimate goal, is logically linked to that goal, minimally restricts rights, and strikes a just balance between individual rights and public interest.

This paper seeks to comprehensively assess whether the principle of proportionality should replace the traditional standard of reasonableness within the scope of judicial review in India. By exploring their foundational concepts, structural differences, judicial applications, and implications for constitutional rights, this paper aims to determine which framework aligns

more closely with the principles of modern constitutionalism, transparency, accountability, and the effective safeguarding of rights in India.

## **THE TRADITIONAL STANDARD OF JUDICIAL REVIEW-THE WEDNESBURY REASONABLENESS**

Wednesbury reasonableness originates from the decision made by the English Court of Appeal in *Associated Provincial Picture Houses Ltd v Wednesbury Corporation*, where a cinema owner contested a local authority's requirement that prohibited the entry of children under fifteen on Sundays.<sup>1</sup> Lord Greene MR asserted that courts could only intervene in administrative decisions when the decision was so unreasonable that no reasonable authority could have arrived at it. This standard established a very narrow scope for judicial review, designed to provide administrators with broad discretion while preventing courts from imposing their own preferences.<sup>2</sup> According to the Wednesbury test, the bar for intervention is remarkably high: a decision must be “outrageous in its defiance of logic” or “so absurd that no sensible person could have made it.”<sup>3</sup> This emphatic language highlights that judicial review under Wednesbury does not focus on the merits of the decision. Courts only consider the legality of the decision-making process rather than whether the decision itself is wise, just, or optimal.<sup>4</sup>

Indian courts adopted this framework, especially when dealing with administrative actions alleged to be arbitrary under Article 14. In *State of UP v Renusagar Power Co*, the Supreme Court reiterated that judicial review cannot become an appellate examination of the correctness of administrative decisions and that intervention is justified only when a decision is irrational or arbitrary in the Wednesbury sense.<sup>5</sup> A clearer articulation came in *Om Kumar v Union of India*, where the Supreme Court distinguished between cases involving administrative discretion and those affecting fundamental rights. The Court held that Wednesbury unreasonableness applies to claims of arbitrariness under Article 14, while the doctrine of proportionality should govern cases involving fundamental rights, particularly under Articles 19 and 21.<sup>6</sup> This dual framework has shaped Indian administrative law by balancing the need for judicial restraint with the constitutional mandate to curb arbitrariness.

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<sup>1</sup> *Associated Provincial Picture Houses Ltd v Wednesbury Corporation* [1948] 1 KB 223 (CA)

<sup>2</sup> *Ibid*

<sup>3</sup> Paul Craig, *Administrative Law* (9<sup>th</sup> edn, Sweet & Maxwell 2021) 625-630

<sup>4</sup> Peter Cane, *Administrative Law* (5<sup>th</sup> edn, OUP 2011) 240-245

<sup>5</sup> *State of UP v Renusagar Power Co* (1988) 4 SCC 59

<sup>6</sup> *Om Kumar v Union of India* (2001) 2 SCC 386

## THE DOCTRINE OF PROPORTIONALITY

The Doctrine of Proportionality has evolved into a central feature of judicial review in modern constitutional democracies. Its earliest and most influential development took place in German constitutional law, where the Federal Constitutional Court formulated a structured test to ensure that state restrictions on rights were justified, necessary, and not excessive. Over time, this approach—requiring a legitimate aim, rational connection, necessity, and a final balancing—was adopted by other jurisdictions. Canada built on this foundation through the landmark *R v Oakes* decision, in which the Supreme Court introduced the Oakes Test, requiring the State to demonstrate a pressing and substantial objective, a rational connection, minimal impairment, and overall proportionality.<sup>7</sup> The Oakes Test became globally influential because it placed the burden of justification squarely on the State. Proportionality also became deeply embedded in European Union law, where both the European Court of Justice and the European Court of Human Rights employed it to evaluate administrative regulation and rights restrictions.

Across systems, proportionality is now widely understood through a four-step structure. Courts first assess whether the measure pursues a constitutionally legitimate aim. They then evaluate whether there is a rational connection between the measure and that aim, ensuring that it is not arbitrary or speculative. The necessity limb requires the State to adopt the least restrictive alternative capable of achieving the objective. Finally, proportionality *stricto sensu* involves a balancing exercise where the severity of the rights infringement is weighed against the importance of the governmental goal. Even if the measure is rational and minimally impairing, it may still fail if the harm inflicted on rights outweighs the public benefit.

In India, proportionality entered judicial review gradually. For decades, courts relied primarily on the Wednesbury unreasonableness standard, which permitted intervention only when administrative decisions were so outrageous that no reasonable authority could make them. However, as fundamental rights litigation expanded, the limitations of Wednesbury became apparent. A turning point came when the Supreme Court formally adopted proportionality in *Modern Dental College v State of Madhya Pradesh*, where a Constitution Bench held that restrictions on fundamental rights must satisfy a structured proportionality test consistent with global constitutional practice.<sup>8</sup> This shift was deepened in the landmark privacy case *KS Puttaswamy v Union of India* (2017), where the Supreme Court held that any infringement of

<sup>7</sup> *R v Oakes* [1986] 1 SCR 103

<sup>8</sup> *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353.

privacy must meet the standards of legality, legitimate aim, proportionality, and necessity, thereby firmly entrenching proportionality into Indian constitutional law.<sup>9</sup>

The Court has since applied proportionality in several influential decisions. In *Anuradha Bhasin v Union of India*, which dealt with the internet shutdown in Jammu & Kashmir, the Court applied proportionality to evaluate restrictions on free speech and movement, emphasising the requirement of necessity, periodic review, and the impermissibility of indefinite restrictions.<sup>10</sup> In *KS Puttaswamy v Union of India (Aadhaar)*, the Court used proportionality to assess data collection, authentication, and privacy implications. While upholding the Aadhaar scheme, it struck down the mandatory linking of Aadhaar with mobile phones and bank accounts as disproportionate.<sup>11</sup>

Today, proportionality is firmly established as the governing standard when fundamental rights are restricted in India. Courts routinely apply it in cases involving privacy, free speech, movement, education, and equality. However, its reach in administrative law remains limited. For routine administrative decisions, Indian courts still employ the more deferential Wednesbury standard, given concerns that proportionality may push courts into reviewing the merits of executive decisions. Although scholars increasingly argue that proportionality should replace Wednesbury entirely, judicial caution persists. As a result, proportionality dominates fundamental rights analysis, while Wednesbury continues to operate in traditional administrative law, reflecting an ongoing balance between judicial scrutiny and executive discretion.

## **COMPARATIVE ANALYSIS: REASONABLENESS VS PROPORTIONALITY**

The standards of reasonableness and proportionality represent two distinct approaches through which courts review administrative or legislative action. Although both doctrines aim to prevent arbitrary or excessive use of power, they differ fundamentally in structure, intensity of review, and their implications for rights adjudication. An assessment of these differences helps clarify why many modern constitutional systems have shifted towards proportionality—particularly in cases involving fundamental rights.

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<sup>9</sup> *K S Puttaswamy v Union of India* (2017) 10 SCC 1

<sup>10</sup> *Anuradha Bhasin v Union of India* (2020) 3 SCC 637

<sup>11</sup> *Puttaswamy* (n 9)

**Conceptual Differences:** At a conceptual level, Wednesbury reasonableness sets a very high threshold for judicial intervention. A decision can be struck down only if it is “so unreasonable that no reasonable authority could ever have come to it.”<sup>12</sup> This test is rooted in judicial restraint, giving primacy to the decision-maker’s discretion. In contrast, proportionality is a structured standard consisting of multiple stages: legitimate aim, rational connection, necessity, and balancing.<sup>13</sup> It requires courts to actively engage with the merits of the decision, especially its impact on individual rights. While reasonableness focuses on the outer boundary of lawful decision-making, proportionality evaluates how the decision was reached and whether it unduly burdens rights.

**Scope of Review:** The scope of review under Wednesbury is narrow. Courts refrain from substituting their own views for those of the authority and intervene only in cases of extreme irrationality.<sup>14</sup> Proportionality, on the other hand, expands the judicial lens. The court examines not only the reasonableness of the outcome but the legitimacy of the aim, the suitability of the means, whether less restrictive measures were available, and whether the benefits outweigh the rights infringed.<sup>15</sup> This broader scope makes proportionality a more intrusive and rights-sensitive standard.

**Level of Judicial Scrutiny:** Wednesbury traditionally embodies a low-intensity review, especially in areas involving policy, national security, or socio-economic considerations.<sup>16</sup> Courts often defer to administrative expertise. Proportionality, however, entails graduated levels of scrutiny depending on the nature of the right involved. In cases involving core constitutional freedoms, courts generally apply strict scrutiny, closely examining both the purpose of the measure and the burden imposed.<sup>17</sup> This empowers courts to meaningfully assess whether state actions unjustifiably restrict fundamental rights.

**Impact on Rights:** The impact on rights is perhaps the most significant difference. Reasonableness does not mandate rights balancing and may inadequately protect fundamental rights because it focuses on irrationality rather than rights infringement.<sup>18</sup> Proportionality, by contrast, is inherently rights-oriented. It requires the State to justify rights restrictions and show

<sup>12</sup> Wednesbury (n 1)

<sup>13</sup> Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (CUP 2012) 131-135

<sup>14</sup> Paul Craig, *The Nature of Reasonableness Review* (2013) 66 CLP 131

<sup>15</sup> *R (Daly) v Secretary of State for the Home Department* [2001] 2 AC 532 (HL)

<sup>16</sup> TRS Allan, *Constitutional Justice: A Liberal Theory of Rule of Law* (OUP 2001) 87-90

<sup>17</sup> *R v Oakes* (n 7)

<sup>18</sup> Julian Rivers, ‘Proportionality and Variable Intensity of Review’ (2006) 65 CLJ 174

that the measure is narrowly tailored. This approach aligns more naturally with constitutional democracies that prioritise individual liberties.<sup>19</sup> The Indian Supreme Court has increasingly adopted proportionality in rights cases, particularly after Modern Dental College and Puttaswamy, recognising its suitability for rights-intensive adjudication.<sup>20</sup>

**Deference to the Executive:** Reasonableness is historically associated with high deference to the executive. Courts assume that administrative bodies have superior knowledge of policy matters and intervene only when a decision is outrageous or perverse.<sup>21</sup> Proportionality, however, reduces the extent of deference, requiring the State to demonstrate why its action is necessary and proportionate. That said, proportionality does not eliminate deference altogether. Courts may still apply a margin of appreciation, especially in complex policy areas, but this deference is more structured and justified rather than automatic.<sup>22</sup>

## **ARGUMENTS FOR REPLACING REASONABLENESS WITH PROPORTIONALITY**

Proponents argue that proportionality offers superior protection of fundamental rights compared to Wednesbury reasonableness because it requires courts to engage with the actual impact of state action rather than merely checking for extreme unreasonableness.<sup>23</sup> Through its structured four-stage test—legitimate aim, rational connection, necessity, and balancing—proportionality imposes a transparent and reason-giving framework on judicial review, ensuring that state authorities justify why a rights-restricting measure is required and whether a less restrictive alternative could achieve the same goal.<sup>24</sup> This approach also aligns India with modern constitutional democracies, where proportionality has long been entrenched in jurisdictions such as Germany, Canada, and the European Union, creating methodological coherence with comparative law developments.<sup>25</sup> Moreover, proportionality helps curb arbitrary or excessive administrative action, especially in contexts involving intrusive state power, because it subjects government measures to a deeper assessment of fairness, suitability, and rights impact rather than relying on Wednesbury's high threshold of "outrageous"

<sup>19</sup> Barak (n 13) 340

<sup>20</sup> Modern Dental College (n 8); K S Puttuswamy (n 9)

<sup>21</sup> Wednesbury (n 1)

<sup>22</sup> Bank Mellat v HM Treasury (No 2) [2013] UKSC 39, [75]

<sup>23</sup> Maneka Gandhi v Union of India (1978) 1 SCC 248

<sup>24</sup> Modern Dental College (n 8)

<sup>25</sup> R v Oakes (n 7) (Canada); Solange / BverfGE 37, 271 (German Federal Constitutional Court); Internationale handelsgesellschaft (1970) ECR 1125 (ECJ)

irrationality.<sup>26</sup> In contemporary governance, proportionality is particularly valuable in complex policy domains—including digital surveillance,<sup>27</sup> nationwide internet shutdowns,<sup>28</sup> public health restrictions during pandemics,<sup>29</sup> and environmental regulation,<sup>30</sup> where decisions often involve competing rights and technical considerations, thus requiring a structured balancing exercise that the traditional reasonableness standard is ill-equipped to perform.

## ARGUMENTS AGAINST REPLACING REASONABLENESS

A significant concern regarding the adoption of proportionality as the primary standard for judicial review is the potential for judicial overreach. Proportionality necessitates that courts carefully evaluate the necessity and balance of administrative choices, which may result in judges imposing their own evaluations in place of those made by the executive. Critics contend that this extends beyond the conventional constitutional function of the judiciary, especially within a separation-of-powers framework where policy decisions are assigned to democratically accountable entities. Excessive judicial involvement might hinder institutional expertise and obscure the line between adjudication and governance.<sup>31</sup>

Closely related to this issue is the apprehension that courts may become “super administrators.” Unlike Wednesbury reasonableness, which limits judicial scrutiny of the merits of administrative decisions, proportionality engages in a more thorough investigation into whether the chosen means were the least restrictive and correctly balanced. Such an examination may force judges to assess policy options, administrative priorities, and resource distribution—responsibilities that are traditionally the domain of the executive branch. The Supreme Court has consistently warned that courts should not act as appellate bodies regarding administrative judgment.<sup>32</sup>

Another major objection is that proportionality necessitates policy knowledge that courts may lack. Numerous administrative decisions involve intricate socio-economic, technical, or scientific factors—such as environmental regulations, public health policies, or national security strategies. Judges, who do not have access to the same data and expertise as specialised

<sup>26</sup> Wednesbury (n 1)

<sup>27</sup> Puttuswamy (n 9)

<sup>28</sup> Anuradha Bhasin (n 10)

<sup>29</sup> Gaurav Kumar Bansal v Union of India (2021) 6 SCC 772

<sup>30</sup> T N Godavarman Thirumulpad v Union of India (2012) 4 SCC 362

<sup>31</sup> Barak (n 13)

<sup>32</sup> Tata Cellular v Union of India (2002) 6 SCC 651

agencies, may be poorly equipped to ascertain whether a specific measure was genuinely “necessary” or the least restrictive alternative. Judicial errors in these realms could lead to impractical or counterproductive results.<sup>33</sup>

The additional burden placed on the judiciary is also a pragmatic concern. Proportionality analysis is intricate and multi-faceted, compelling courts to thoroughly investigate evidence, alternatives, and conflicting interests. In a system like India’s, where courts are already under significant strain, widespread implementation of proportionality could hinder the speed of adjudication and elevate litigation expenses. In contrast, Wednesbury reasonableness presents a more restrained and efficient standard for review, intervening only in instances of blatant irrationality.<sup>34</sup>

Finally, it is suggested that Wednesbury’s flexibility can be advantageous, particularly in routine administrative issues that do not directly involve fundamental rights. Its adaptable nature permits courts to modulate the intensity of review based on context, rather than rigidly applying a structured test universally. The Indian Supreme Court has acknowledged that different standards of review may be suitable for various categories of decisions, thereby maintaining Wednesbury reasonableness as a useful instrument in administrative challenges that do not focus on rights.<sup>35</sup>

## THE INDIAN SUPREME COURT’S CURRENT POSITION

The Supreme Court in *Om Kumar v Union of India* laid down a clear but limited framework governing standards of judicial review in India. The Court held that Wednesbury unreasonableness would continue to apply to purely administrative or policy decisions, where courts are concerned only with whether the decision is so irrational that no reasonable authority could have arrived at it. In contrast, where fundamental rights are directly implicated, particularly under Articles 14, 19 and 21, the Court endorsed proportionality as the appropriate standard, requiring a closer examination of the relationship between the means adopted by the State and the legitimate aim sought to be achieved. This judgment thus institutionalised a dual standard of review, seeking to balance judicial restraint with effective rights protection.<sup>36</sup>

<sup>33</sup> *BALCO Employees’ Union v Union of India* (2002) 2 SCC 333

<sup>34</sup> *Wednesbury* (n 1)

<sup>35</sup> *Om Kumar* (n 6)

<sup>36</sup> *Ibid*

Following Om Kumar, the Supreme Court has increasingly relied on proportionality in cases involving constitutional rights. In *Modern Dental College and Research Centre v State of Madhya Pradesh*, the Court expressly adopted the four-stage proportionality test to assess restrictions on the right to practise a profession under Article 19(1)(g).<sup>37</sup> This shift became more pronounced in *Justice K S Puttaswamy v Union of India*, where proportionality was recognised as an essential component of privacy adjudication under Article 21.<sup>38</sup> Subsequent decisions, such as *Anuradha Bhasin v Union of India*, applied proportionality to assess internet shutdowns, signalling the Court's willingness to scrutinise State action more intensively when civil liberties are at stake.<sup>39</sup>

Despite this apparent movement, the Court's jurisprudence remains **inconsistent**. In several administrative and economic regulation cases, the Court continues to invoke Wednesbury-style deference, emphasising institutional competence and separation of powers, as seen in decisions following *Tata Cellular v Union of India*.<sup>40</sup> At times, even rights-affecting cases witness diluted proportionality analysis or a reversion to broad reasonableness review. This uneven application has led to uncertainty about when proportionality will be rigorously applied and when courts will retreat into rest.

The coexistence of Wednesbury and proportionality without a clearly articulated boundary has resulted in doctrinal ambiguity. Scholars and courts alike have noted that proportionality's structured inquiry enhances transparency and accountability, whereas Wednesbury's flexibility risks unpredictability. A clearer judicial statement—either refining the dual standard or adopting a calibrated, context-sensitive proportionality framework—would promote consistency in judicial review and strengthen constitutional governance. The Supreme Court's evolving rights jurisprudence suggests movement in this direction, but a definitive doctrinal clarification remains necessary.

## SHOULD PROPORTIONALITY REPLACE REASONABLENESS

An expanding body of constitutional law indicates that proportionality should take the place of Wednesbury reasonableness, but this should only be done in a limited and cautious way. The most compelling argument for substitution arises when administrative actions have a direct

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<sup>37</sup> *Modern Dental College* (n 8)

<sup>38</sup> *Puttaswamy* (n 9)

<sup>39</sup> *Anuradha Bhasin* (n 10)

<sup>40</sup> *Tata cellular* (n 32)

impact on fundamental rights. In these scenarios, the conventional Wednesbury test—which mandates that a decision be “so unreasonable that no reasonable authority could ever have come to it”—imposes an excessively high standard and provides minimal substantive protection for rights holders. The Supreme Court has acknowledged this limitation, increasingly favouring proportionality when State actions infringe on rights outlined in Part III of the Constitution.<sup>41</sup> Proportionality, in contrast, enables courts to assess whether the limitation aims for a legitimate purpose, whether there is a rational link between the means used and the objective, whether a less restrictive option existed, and whether the negative effect on rights is excessive in relation to the public interest.<sup>42</sup>

Nonetheless, broadening the application of proportionality to encompass all administrative decisions, including everyday policy matters, contracts, tenders, transfers, and disciplinary actions, raises significant concerns. A number of these decisions require specialised knowledge, involve multiple interrelated considerations, and involve choices about resource allocation that courts are not institutionally equipped to reevaluate. Universally applying proportionality risks transforming judicial review into a review of merits, consequently jeopardising the separation of powers. Acknowledging this risk, the Supreme Court in *Om Kumar v Union of India* specifically limited the use of proportionality to cases concerning fundamental rights, while maintaining Wednesbury reasonableness for standard administrative actions.<sup>43</sup> This differentiation seeks to balance the protection of rights with judicial restraint. Instead of a complete substitution, a hybrid or calibrated model of judicial review is more normatively and institutionally appropriate. In this framework, Wednesbury reasonableness remains applicable to non-rights-based administrative decisions, whereas proportionality governs instances involving fundamental rights, human dignity, or significant civil consequences. Such a calibration permits courts to modify the intensity of their review based on the nature of the interest involved. In *Modern Dental College v State of Madhya Pradesh*, the Supreme Court supported the use of proportionality specifically because the regulatory measures in question significantly impacted the right to practice a profession under Article 19(1)(g).<sup>44</sup>

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<sup>41</sup> *Maneka Gandhi* (n 23)

<sup>42</sup> *Modern Dental College* (n 8)

<sup>43</sup> *Om Kumar* (n 6)

<sup>44</sup> *Modern Dental College* (n 8)

This hybrid approach also aligns Indian administrative law with global constitutional practices. Jurisdictions like the United Kingdom primarily employ proportionality in rights-based reviews under the Human Rights Act, while still utilising reasonableness in standard administrative law matters.<sup>45</sup> Crucially, a calibrated approach maintains administrative autonomy while ensuring that constitutional rights are not subjected to the deferential and unclear standards of Wednesbury review. It also addresses concerns regarding judicial overreach by restricting proportionality to scenarios in which closer scrutiny is justified under the Constitution.

Another doctrinal avenue through which proportionality is being integrated into Indian law is the prohibition of “manifest arbitrariness” under Article 14. In *Shayara Bano v Union of India*, the Supreme Court determined that legislation or executive actions that are whimsical, irrational, or devoid of adequate guiding principles violate Article 14.<sup>46</sup> Although it isn’t explicitly framed as proportionality, this doctrine implicitly compels courts to assess the reasonableness of the means utilised in relation to the goal pursued, which is a fundamental aspect of proportionality analysis.

Following decisions, particularly *Justice K.S. Puttaswamy v Union of India*, have strengthened this convergence by viewing proportionality as a vital component of equality and non-arbitrariness.<sup>47</sup> When State actions disproportionately burden individuals without adequate justification, they may be deemed manifestly arbitrary under Article 14, even outside the traditional parameters of Articles 19 or 21. This blending of doctrines indicates that proportionality is increasingly being constitutionalised within Article 14, rather than being merely an external or imported standard.

## CONCLUSION

The analysis presented in this paper demonstrates that the traditional Wednesbury standard of reasonableness, although historically significant, is increasingly insufficient for managing the complexities of modern administrative governance—particularly in cases involving fundamental rights and major individual interests. In contrast, proportionality offers a systematic, transparent, and rights-centred framework that enables courts to rigorously assess the justification, necessity, and implications of State actions. The landscape of Indian

<sup>45</sup> Daly (n 15)

<sup>46</sup> *Shayara Bano v Union of India* (2017) 9 SCC 1

<sup>47</sup> *Puttaswamy* (n 9)

constitutional law reflects this conflict: while Wednesbury remains the benchmark for typical administrative decisions, the Supreme Court has progressively leaned towards proportionality in cases concerning rights, leading to doctrinal contradictions and uncertainty.<sup>48</sup>

One key finding from this study is that neither standard by itself provides a complete solution. Fully replacing Wednesbury with proportionality could result in judicial overreach, policy substitution, and an overwhelming burden on the courts—concerns that the Supreme Court has repeatedly recognised.<sup>49</sup> At the same time, a strict adherence to Wednesbury's high bar often fails to safeguard constitutional rights effectively, particularly regarding issues like surveillance, internet shutdowns, public health mandates, and environmental legislation.<sup>50</sup> Therefore, the Indian context reveals a fragmented approach to judicial review, lacking a clear normative framework for determining when more rigorous scrutiny is warranted.

Looking ahead, this paper proposes the adoption of a nuanced and context-sensitive judicial review model rather than a radical doctrinal shift. A gradual movement towards a "Wednesbury + proportionality" framework would allow courts to uphold the institutional restraint inherent in Wednesbury for routine administrative and policy matters while employing proportionality when essential rights, equality under Article 14, or substantial restrictions on liberty are implicated. This method finds implicit support in *Om Kumar v Union of India*, where the Court recognised a dual standard of review, which was further solidified in later judgments that apply proportionality to rights-related matters.<sup>51</sup> Importantly, proportionality can be understood not as an external constraint but as a vital component of Article 14's safeguard against arbitrariness, especially within the doctrine of manifest arbitrariness.<sup>52</sup> Incorporating proportionality into Article 14 would enhance doctrinal consistency while preserving judicial self-restraint through well-defined review stages. Ultimately, a coherent and balanced approach to judicial review—one that combines Wednesbury's deference with proportionality's depth—offers the most practical way forward for Indian administrative law within a constitutional democracy.

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<sup>48</sup> *Om Kumar* (n 6)

<sup>49</sup> *State of NCT of Delhi v Union of India* (2020) 5 SCC 181

<sup>50</sup> *Anuradha Bhasin* (n 10)

<sup>51</sup> *Om Kumar* (n 6); *Modern Dental College* (n 8)

<sup>52</sup> *Shayara Bano* (n 46); *EP Royappa v State of Tamil Nadu* (1974) 4 SCC 3