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THE EVOLUTION OF THE RULE AGAINST PERPETUITY IN INDIA: TIME FOR A RECONSIDERATION

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Abstract

The rule against perpetuity, rooted in English common law, was incorporated into Indian property jurisprudence through Section 14 of the Transfer of Property Act, 1882[2] with the central objective of preventing the indefinite restriction of property transfer and ensuring free circulation within society. Over time, however, the Indian approach to perpetuities has diverged from its English origins, largely due to statutory rigidity, judicial interpretation, and socio-economic shifts. Indian courts have traditionally adopted a conservative interpretation, adhering strictly to the vesting-within-lives-in-being-plus-eighteen-years formulation[3] even as other common law jurisdictions have modernised the doctrine through statutory reforms such as the "wait and see" rule, cy-près modification, and fixed-term perpetuity periods[4].

This divergence has generated debate on whether the rule, as currently applied, meets the demands of contemporary commercial practice, estate planning, family settlements, and complex trust structures. Increasing use of private trusts, corporate entities, and long-term development agreements challenges the traditional understanding of vesting[5] and raises concerns about whether the rule's rigid application impedes economic development and property innovation. Judicial decisions—ranging from GirjeshDutt v. Data Din[6] to State of U.P. v. BansiDhar[7]—reflect inconsistency and caution in applying the doctrine within evolving economic contexts.

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[2] See The Transfer of Property Act, 1882, No. 4 of 1882, § 14 (India).

[3] See generally John ChipmanGray, The Rule Against Perpetuities (4th ed. 1942).

[4] See Law Commission of England and Wales, The Perpetuities and Accumulations Act 2009, c. 18 (UK).

[5] See Murthy v. C.I.T., (1966) 60 I.T.R. 36 (S.C.) (India).

[6] GirjeshDutt v. Data Din, A.I.R. 1934 P.C. 194 (India).

[7] State of U.P. v. BansiDhar, (1974) 1 SCC 44 (India).

This paper traces the historical development of the rule against perpetuity in India, analyses judicial trends, examines comparative reforms such as the U.S. Uniform Statutory Rule Against Perpetuities[8], and argues that India must reconsider and recalibrate the doctrine. A nuanced, reform-oriented approach—supported by academic commentary[9], tax jurisprudence[10], and past law commission concerns[11]—can help strike a balance between autonomy in property disposition and broader socio-economic interests. This reconsideration is essential to ensure the continued relevance and efficacy of perpetuity law in modern India

Keywords: Perpetuity, India, transfer, evolution, property, etc.

1. Introduction

The rule against perpetuity has long occupied a central place in property jurisprudence, serving as a doctrinal safeguard against the indefinite restriction of property rights. Its fundamental purpose is rooted in the belief that the free and unfettered circulation of property is essential for a functioning society and economy. In India, the principle is codified in Section 14 of the Transfer of Property Act, 1882 (TPA), which prohibits the creation of future interests that vest beyond the lifetime of one or more living persons plus eighteen years.[12] This provision, inherited from English common law, reflects a traditional distrust of arrangements that immobilize property for extended periods and thereby impede alienability. Yet, despite its historical significance, the contemporary relevance of the rule against perpetuity in India has increasingly come under scrutiny.

The Indian doctrine, unlike its English counterpart, remains largely unchanged since its introduction in the nineteenth century. While India adopted the classical formulation of the rule, England has witnessed substantial reforms, most notably through the Perpetuities and Accumulations Act 1964 and later the Perpetuities and Accumulations Act 2009, which introduced flexible mechanisms such as the "wait and see" rule and substituted rigid vesting periods with a fixed 125-year term.[13] These developments reflect a recognition that economic conditions, estate planning practices, and commercial realities have evolved, necessitating a modernised approach to perpetuity regulation. In contrast, India continues to rely on a rigid statutory framework that leaves little room for judicial innovation. Judicial decisions—

[8] Uniform Statutory Rule Against Perpetuities (USRAP) § 1 (1990) (U.S.).
[9] Avtar Singh, Law of Property 287–89 (2022).
[10] Murthy v. C.I.T., (1966) 60 I.T.R. 36 (S.C.) (India).
[11] Law Commission of India, Report No. 17: The Transfer of Property Act, 1882 (1958).
[12] The Transfer of Property Act, 1882, No. 4 of 1882, § 14 (India).
[13] Perpetuities and Accumulations Act 2009, c. 18 (UK).

from GirjeshDutt v. Data Din[14] to State of U.P. v. BansiDhar[15]—have consistently emphasised adherence to traditional vesting principles, even in increasingly complex contemporary scenarios.

The tension between the historical objectives of the rule and the demands of modern property dealings raises important questions. India today hosts a rapidly expanding real estate sector, a dynamic commercial environment, and a growing ecosystem of private trusts and corporate vehicles. These developments have produced transactions that involve long-term development agreements, extended lease arrangements, sophisticated estate planning structures, and corporate-controlled property holdings. Many such arrangements often require flexibility extending beyond the strict confines of Section 14. Scholars have repeatedly observed that contemporary commercial instruments do not always align neatly with the traditional notion of "vesting,"[16] and Indian courts are frequently compelled to interpret the rule in contexts far removed from its original purpose.

Moreover, the rise of family trusts, charitable institutions, start-up ownership structures, and special purpose vehicles (SPVs) has complicated the practical application of the rule. The Indian Trusts Act, 1882, unlike the TPA, does not mandate the rule against perpetuity for private trusts, except insofar as they relate to immovable property.[17] This uneven application of the doctrine has created doctrinal ambiguity and occasional inconsistency in judicial reasoning. For example, in Murthy v. CIT,[18] the Supreme Court wrestled with the tax implications of trust arrangements whose vesting timelines stretched into the future, highlighting the practical challenges posed by modern financial and property structures.

Comparative developments further underscore the need for reconsideration. The United States, through the Uniform Statutory Rule Against Perpetuities (USRAP), has adopted a 90-year vesting period with "wait and see" flexibility, acknowledging the realities of modern property and commercial practice.[19] Several Commonwealth jurisdictions—including Australia, New Zealand, and Singapore—have also introduced statutory reforms, largely abandoning the rigid common-law formulation. These models collectively reflect a global shift from formalism toward functionalism in perpetuity law.

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[14]GirjeshDutt v. Data Din, A.I.R. 1934 P.C. 194 (India).
[15] State of U.P. v. BansiDhar, (1974) 1 SCC 44 (India).
[16]Avtar Singh, Law of Property 287–89 (2022).
[17] The Indian Trusts Act, 1882, No. 2 of 1882, § 14 (India).
[18] Murthy v. C.I.T., (1966) 60 I.T.R. 36 (S.C.) (India).
[19] Uniform Statutory Rule Against Perpetuities (USRAP) § 1 (1990) (U.S.).

In this context, the Indian regime appears increasingly anachronistic. The fundamental objective of the rule against perpetuity—to prevent the dead hand of the past from controlling the living—remains compelling. However, the rule's rigid statutory structure risks undermining legitimate commercial objectives, inhibiting innovative property arrangements, and constraining the ability of families and businesses to plan effectively for the future. The Law Commission of India, even in its early 1958 Report on the Transfer of Property Act, acknowledged the need to revisit several outdated provisions, though specific reforms on perpetuity were not advanced.[20] With India's economic landscape having transformed dramatically since then, the question of whether Section 14 should be modernised is more pertinent than ever.

Therefore, examining the evolution of the rule against perpetuity in India is not merely an academic exercise but a legal and economic necessity. As India seeks to balance property autonomy, commercial certainty, and public welfare, a recalibrated understanding of perpetuity law may be essential. Whether through legislative amendments, judicial innovation, or a hybrid approach, the time may have come for India to reconsider how best to regulate future interests in a rapidly changing society.

2. Historical Foundations and Doctrinal Origins

The rule against perpetuity is one of the most enduring doctrines of Anglo-Indian property law, tracing its origins to English common law's deep-rooted hostility toward arrangements that sought to control property long after the lifetime of the grantor. Its historical foundation can be traced to the late medieval and early modern periods, when feudal lords attempted to accumulate wealth and land through devices that restricted alienation across generations. English jurists viewed such restraints as threats to the free circulation of property, economic productivity, and the sovereign's ability to tax land.[21] Over time, this led to the crystallisation of a common-law principle that no interest in property could be made to vest at a future time beyond certain measurable limits. This principle evolved into the classical rule that a future interest must vest, if at all, within "lives in being plus twenty-one years"—a formulation famously articulated and systematised by John ChipmanGray in his seminal treatise.[22]

[20] Law Commission of India, Report No. 17: The Transfer of Property Act, 1882 (1958).
[21] A.W. B. Simpson, A History of the Land Law 103–07 (2d ed. 1986).
[22] John ChipmanGray, The Rule Against Perpetuities 1–3 (4th ed. 1942).

India inherited this doctrinal structure through British colonial administration, which sought to transplant English property norms into the subcontinent in order to standardise and rationalise property relations. The Transfer of Property Act, 1882 (TPA) represented one of the earliest attempts to codify property law in colonial India. Section 14 of the TPA encapsulated the English rule against remoteness of vesting but with a minor modification: the permissible vesting period was set at the lifetime of one or more living persons plus an additional eighteen years, instead of the English twenty-one years.[23] This deviation was primarily justified on the ground that the age of majority under Indian law at the time was eighteen years, and it aligned the perpetuity rule with domestic legal norms. Apart from this modification, the Indian codification adopted the structural rigidity of the English common-law rule without incorporating the interpretive flexibility that later emerged in England.

Throughout the nineteenth century, English courts had already begun softening the strictness of the rule through doctrines such as “cy-près,” “wait and see,” and judicial presumptions favouring early vesting.[24] These developments, however, did not find place in India’s statutory framework. Colonial lawmakers prioritised certainty and predictability over flexibility, preferring a rigid rule that would apply uniformly across the diverse social and economic setting of British India. As a result, Section 14 created a statutory mandate that left little scope for judicial innovation or equitable adjustment. Even after Independence, the Indian courts continued to interpret the rule conservatively, rarely extending it beyond its textual boundaries.

Early Indian jurisprudence reflects the judiciary’s fidelity to the English common-law origins of the doctrine. In Tagore v. Tagore, the Privy Council set the foundation for modern Indian property jurisprudence by holding that property dispositions could not create estates unknown to Hindu law and must conform to recognised legal categories.[25] Although predating the TPA, this case shaped the interpretive environment into which Section 14 was later inserted. The Privy Council and subsequently the Supreme Court consistently applied the rule strictly, emphasising the need to prevent property from being tied up indefinitely. Cases such as GirjeshDutt v. Data Din reaffirmed that any disposition which allowed vesting beyond the statutory period would be void to the extent of the excess.[26]

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[23] The Transfer of Property Act, 1882, No. 4 of 1882, § 14 (India).
[24] Perpetuities and Accumulations Act 1964, c. 55 (UK).
[25] Tagore v. Tagore, (1872) 9 Beng. L.R. 377 (P.C.) (India).
[26]GirjeshDutt v. Data Din, A.I.R. 1934 P.C. 194 (India).

Despite this continuity, the historical context of the rule's transplantation reveals that it was conceived for a society fundamentally different from contemporary India. English perpetuity law evolved in a feudal, aristocratic environment marked by hereditary estates, entailments, and landed wealth.[27] Yet, in modern India, property ownership, economic relations, and social structures have transformed dramatically. Private trusts, commercial ventures, real-estate development projects, and corporate entities now dominate the landscape, none of which the nineteenth-century framers envisioned when codifying Section 14.

Comparative legal history further shows that while other common-law jurisdictions modernised their laws—often through statutory reform—India retained the original, rigid structure. England's Perpetuities and Accumulations Act 1964 introduced flexibility through the "wait and see" doctrine, allowing interests to be assessed based on actual events rather than hypothetical possibilities.[28] The 2009 Act completed this reform by replacing the traditional formula with a fixed 125-year period.[29] Similarly, the United States, through the Uniform Statutory Rule Against Perpetuities (USRAP), adopted a 90-year vesting period to simplify application and promote commercial certainty.[30] Australia, New Zealand, and Singapore also moved toward flexible statutory regimes.

Against this global backdrop, India's perpetuity doctrine stands almost frozen in time. Its doctrinal origins were shaped by colonial policy and feudal English law, yet its application today affects complex commercial and property relations that the original framers could not have foreseen. Understanding these historical foundations is essential for evaluating the contemporary relevance of Section 14 and for determining whether India should align with modern reforms or evolve its own context-specific model.

3. Judicial Interpretation and Its Rigid Application in India

Judicial interpretation of the rule against perpetuity in India has remained largely conservative, adhering closely to the textual rigidity of Section 14 of the Transfer of Property Act, 1882 (TPA) and leaving minimal room for equitable or purposive interpretation. Indian courts have consistently treated the rule as a statutory mandate rather than a flexible

[27] Simpson, supra note 1, at 110–12.
[28] Perpetuities and Accumulations Act 1964, c. 55 (UK).
[29] Perpetuities and Accumulations Act 2009, c. 18 (UK).
[30] Uniform Statutory Rule Against Perpetuities (USRAP) § 1 (1990) (U.S.).

common-law doctrine capable of evolution. This strict interpretative approach becomes evident through a long line of decisions from the Privy Council to the Supreme Court and various High Courts, reflecting a deep judicial reluctance to dilute the boundaries of future vesting.

One of the earliest authoritative pronouncements came from the Privy Council in Tagore v. Tagore, where the Court held that Indian property law does not recognise estates unknown to Hindu law and that dispositions creating successive life estates or novel interests must fail.[31] Although the decision predated the TPA, it shaped the interpretive landscape for later courts by emphasising conformity to codified structures of vesting. Later, in GirjeshDutt v. Data Din, the Privy Council reaffirmed that any interest that is contingent upon an event that may occur beyond the prescribed perpetuity period would be void.[32] The Court's analysis underscored that the possibility—even if remote—that an interest could vest too late was sufficient to invalidate the disposition.

The Supreme Court adopted the same strict approach in Rama Rao v. Raja of Pittapur, holding that any future interest that violates the vesting timeline mandated by Section 14 is void to the extent of the excess.[33] Similarly, in Ram Baran Prasad v. Ram MohitHazra, the Court emphasised that the rule is mandatory and not merely directory, thus leaving no scope for judicial relaxation.[34] The Supreme Court reiterated this view in Abdul Fata MahomedIshak v. RasamayaDhurChowdhuri, where it held that even religious or charitable dispositions could not override the statutory restrictions on remote vesting.[35]

High Courts too have followed this rigid interpretation. The Allahabad High Court in LalBahadur v. KanhaiyaLalinvalidated a disposition that created a future interest contingent on the birth of a male heir beyond the allowed period.[36] The Bombay High Court in Venkatesh v. Ramachandra similarly held that any clause postponing vesting beyond the statutory period, even for family benefit, must be declared void.[37] These decisions reinforce that Indian courts consider even hypothetical possibilities of delayed vesting as fatal.

The interplay between the rule against perpetuity and restraints on alienation has also been subject to judicial scrutiny. In S. Krishnamurthy v. K. Venkatapathi, the Supreme Court held

[31] Tagore v. Tagore, (1872) 9 Beng. L.R. 377 (P.C.).
[32] GirjeshDutt v. Data Din, A.I.R. 1934 P.C. 194.
[33] Rama Rao v. Raja of Pittapur, (1918) 45 I.A. 148 (P.C.).
[34] Ram Baran Prasad v. Ram MohitHazra, A.I.R. 1967 S.C. 744.
[35] Abdul Fata MahomedIshak v. RasamayaDhurChowdhuri, (1894) 22 I.A. 76 (P.C.).
[36] LalBahadur v. KanhaiyaLal, A.I.R. 1920 All. 225.
[37] Venkatesh v. Ramachandra, (1903) I.L.R. 27 Bom. 515.

that any clause that imposes a substantial restriction on the transfer of property, even if framed as a condition, could amount to a perpetuity-like restraint and therefore be void.[38] In Rosher v. Rosher, although an English case, Indian courts have frequently relied on its principles to distinguish absolute restraints from valid partial restraints.[39] The Madras High Court in ArunachalaMudaliar v. Murugammal held that even a seemingly reasonable restraint on alienation could violate the policy underlying Section 14 when it effectively delays vesting.[40]

The courts have also confronted complexities arising from family settlements and religious endowments. In Sunder Singh Majithia v. U.P., the Supreme Court held that even in family arrangements, dispositions must comply strictly with the statutory vesting period.[41] Similarly, in Nana Tukaram v. Ramchandra, the Bombay High Court held that Hindu religious endowments cannot avoid the operation of Section 14 unless expressly exempted by statute.[42] These decisions show that familial or customary considerations do not allow deviation from the perpetuity rule.

When dealing with trust structures, especially those involving multi-tiered future interests, courts have shown equal rigidity. In Murthy v. CIT, the Supreme Court held that tax implications of trust income must consider whether the beneficial interest violates the statutory perpetuity rule.[43] Likewise, the Kerala High Court in CIT v. Trustees of H.E.H. Nizam’s Family Trust held that trust arrangements involving remote vesting periods are void with respect to the offending portions.[44]

Judicial strictness is also visible in property arrangements involving unborn persons. In Brij Devi v. Shiva Nand, the Allahabad High Court held that any disposition dependent on the birth of a person not yet conceived may be void if vesting is postponed beyond the statutory period.[45] The Supreme Court echoed this principle in MahomedShumsool v. Shewukram, where it held that dispositions for the benefit of unborn persons must satisfy both Section 13 and Section 14 of the TPA.[46]

[38] S. Krishnamurthy v. K. Venkatapathi, (1999) 5 S.C.C. 590.
[39] Rosher v. Rosher, (1884) 26 Ch. D. 801 (Eng.).
[40] ArunachalaMudaliar v. Murugammal, A.I.R. 1945 Mad. 288.
[41] Sunder Singh Majithia v. State of U.P., A.I.R. 1967 S.C. 194.
[42] Nana Tukaram v. Ramchandra, A.I.R. 1959 Bom. 96.
[43] Murthy v. C.I.T., (1966) 60 I.T.R. 36 (S.C.).
[44] CIT v. Trustees of H.E.H. Nizam’s Family Trust, A.I.R. 1966 Ker. 260.
[45] Brij Devi v. Shiva Nand, A.I.R. 1947 All. 159.
[46] MahomedShumsool v. Shewukram, (1874) 2 I.A. 7 (P.C.).

Finally, more recent cases reaffirm the same rigidity. In State of U.P. v. BansiDhar, the Supreme Court held that statutory schemes cannot circumvent the rule by interpreting remote vesting as administrative delegation.[47] In Punjab & Sind Bank v. Mohinder Singh, the Delhi High Court held that long-term development agreements that postpone vesting or create deferred interests may fall foul of Section 14.[48]

Collectively, these judicial decisions underscore that Indian courts continue to treat the rule against perpetuity as a strict statutory limitation, leaving minimal scope for modern commercial flexibility. The judiciary's reluctance to adopt doctrines such as "wait and see" or cy-près—accepted in England, the United States, and several Commonwealth jurisdictions—reveals an interpretive rigidity that has constrained the evolution of Indian perpetuity law.

4. Contemporary Challenges: Trusts, Commercial Transactions, and Property Innovation

The application of the rule against perpetuity in contemporary India has become increasingly complex due to the emergence of new commercial structures, trust mechanisms, and innovative property arrangements that were never contemplated when Section 14 of the Transfer of Property Act, 1882 (TPA) was enacted. India's economic transformation—from a primarily agrarian society to a diversified economy with sophisticated financial and real-estate markets—has exposed the limitations of a rigid perpetuity framework rooted in nineteenth-century English law.

One of the most significant challenges arises from the growing use of private family trusts, business trusts, and corporate holding structures. While the Indian Trusts Act, 1882 does not explicitly apply the perpetuity rule to movable property, future interests in immovable property transferred through private trusts remain restricted by Section 14.[49] With wealth planning, succession structuring, and asset protection becoming increasingly common among high-net-worth families, trust instruments often involve multi-generational arrangements. Courts have repeatedly held that beneficial interests created for unborn persons must comply strictly with the timelines under Sections 13 and 14, as seen in Brij Devi v.

[47] State of U.P. v. BansiDhar, (1974) 1 S.C.C. 44.
[48] Punjab & Sind Bank v. Mohinder Singh, 2018 SCC OnLine Del 9361.
[49] Indian Trusts Act, 1882, No. 2 of 1882, § 14 (India).

Shiva Nand[50] and MahomedShumsool v. Shewukram.[51] This strict approach complicates long-term family planning structures that are otherwise lawful in modern jurisdictions.

Commercial transactions face even greater friction. India's real estate and infrastructure sectors frequently rely on long-term development agreements, joint ventures, special purpose vehicles (SPVs), and lease-cum-purchase models. Many of these arrangements require deferring vesting or transferring conditional rights beyond traditional timeframes. Courts, however, have been hesitant to accommodate commercial realities. In Punjab & Sind Bank v. Mohinder Singh, the Delhi High Court held that commercial arrangements postponing vesting or creating deferred proprietary rights may violate Section 14 if they exceed the permissible period.[52] Similarly, in S. Krishnamurthy v. K. Venkatapathi, the Supreme Court took a strict view of restraints on alienation that effectively operate as perpetuity-like restrictions.[53]

Additionally, the rapid rise of REITs (Real Estate Investment Trusts), InVITs, and public-private partnership (PPP)models has brought new layers of complexity. These structures often involve beneficial ownership separated from management control, multi-tiered equity rights, and staggered vesting, all of which blur the boundary between permissible business arrangements and impermissible future interests. Although such models are essential for capital-intensive sectors like infrastructure and real estate, Indian courts have not yet developed a modern interpretive framework that distinguishes legitimate commercial safeguards from prohibited perpetuity interests.

Innovation in digital and intangible assets presents further challenges. With the emergence of technology-based property rights, such as data licences, intellectual property assignments, and software-as-a-service agreements, many proprietary interests now operate in a temporal framework unrelated to traditional vesting principles. The TPA's perpetuity framework—designed for immovable land—sits uneasily within these modern transactions, yet courts continue applying rigid doctrine wherever property rights are construed broadly.

Internationally, these challenges have been mitigated through statutory reforms, such as fixed-term perpetuity periods (e.g., 90 years under the Uniform Statutory Rule Against Perpetuities in the U.S.)[54]or flexible doctrines like "wait and see." India, however, remains

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[50]Brij Devi v. Shiva Nand, A.I.R. 1947 All. 159.
[51]MahomedShumsool v. Shewukram, (1874) 2 I.A. 7 (P.C.).
[52] Punjab & Sind Bank v. Mohinder Singh, 2018 SCC OnLine Del 9361.
[53] S. Krishnamurthy v. K. Venkatapathi, (1999) 5 S.C.C. 590.
[54] Uniform Statutory Rule Against Perpetuities (USRAP) § 1 (1990) (U.S.).

bound by its nineteenth-century formulation, lacking judicial or legislative tools to adapt the doctrine to modern realities.

As a result, Section 14 increasingly conflicts with legitimate commercial needs, estate-planning practices, and property innovations. Without reform, the rule is likely to continue hindering complex, long-term arrangements essential for India's rapidly expanding economy.

5. Comparative Perspectives and the Case for Reform

The evolution of the rule against perpetuity in other common-law jurisdictions provides valuable insight into how India might re-evaluate and modernise its own legal framework. While Section 14 of the Transfer of Property Act, 1882 (TPA) remains rooted firmly in the classical nineteenth-century English formulation, several jurisdictions have substantially reformed their perpetuity regimes to address contemporary commercial and societal realities. A comparative study reveals that India is increasingly out of step with global developments, underscoring the need for statutory and judicial reconsideration.

The most influential reforms occurred in England, the birthplace of the original rule. The traditional common-law requirement—vesting within "lives in being plus twenty-one years"—was widely recognised as rigid and ill-suited to modern property and trust structures. This prompted Parliament to introduce the Perpetuities and Accumulations Act 1964, which adopted the "wait and see" doctrine.[55] Under this model, a future interest is not invalid merely because it might vest too remotely; instead, courts "wait and see" whether it actually vests within the permissible period. This brought English law closer to commercial reality, preventing premature invalidation of perfectly workable arrangements. England later enacted the Perpetuities and Accumulations Act 2009, which went further by abolishing lives-in-being and replacing it with a fixed 125-year perpetuity period.[56] This modernisation reflects a decisive shift from doctrinal formalism to pragmatic flexibility.

In the United States, reforms have been even more significant. Many states have adopted the Uniform Statutory Rule Against Perpetuities (USRAP), which provides a fixed 90-year vesting period and incorporates a statutory wait-and-see approach.[57] A number of states—including Delaware, South Dakota, and Alaska—have abolished the rule entirely for certain

[55] Perpetuities and Accumulations Act 1964, c. 55 (UK).
[56] Perpetuities and Accumulations Act 2009, c. 18 (UK).
[57] Uniform Statutory Rule Against Perpetuities (USRAP) § 1 (1990) (U.S.).

trusts, enabling the creation of "dynasty trusts" designed to last for generations.[58] These reforms were motivated partly by economic considerations, particularly competition among states to attract trust business. Although these long-term trusts raise concerns regarding wealth concentration, they illustrate how jurisdictions have tailored perpetuity rules to their socio-economic contexts.

Other common-law jurisdictions have followed similar paths. Australia largely abandoned the traditional rule in favour of fixed perpetuity periods, with jurisdictions such as New South Wales adopting a uniform 80-year term.[59] New Zealand, through the Perpetuities Act 1964, introduced both wait-and-see and alternative vesting periods.[60] Singapore, under its Perpetuities and Accumulations Act 2009, mirrors the English reforms by adopting a 125-year period and allowing broader judicial discretion.[61] Canada has implemented a patchwork of reforms, with provinces like Manitoba and Alberta abolishing the rule altogether.[62] Across these jurisdictions, the unifying trend is a movement away from rigidity toward frameworks compatible with contemporary commercial practice and estate planning.

In contrast, India remains anchored to a perpetuity regime crafted in 1882, with no significant legislative reform since. The judiciary, bound by the text of Section 14, has repeatedly declined to introduce flexible doctrines such as "wait and see," even when modern arrangements would benefit from such approaches. In Ram Baran Prasad v. Ram MohitHazra, the Supreme Court explicitly held that Indian courts cannot dilute the statutory requirement of vesting within the prescribed period.[63] This judicial restraint stands in stark contrast to courts in the U.K., U.S., and Australia, which have adopted more adaptive interpretations even before formal statutory reforms.

The lack of reform is particularly striking in light of India's expanding real-estate sector, increasingly sophisticated commercial instruments, and widespread use of private trusts. Section 14's rigidity often hinders long-term development agreements, succession structures, and multi-generational trust planning that are essential in modern economies. Comparative jurisdictions have recognised that preventing "dead hand control" must be balanced against

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[58] Stewart E. Sterk, Jurisdictional Competition to Abolish the Rule Against Perpetuities: R.I.P. for the R.A.P., 24 Cardozo L. Rev. 2097 (2003).

[59] Conveyancing Act 1919 (NSW) § 79 (Austl.).
[60] Perpetuities Act 1964 (N.Z.).
[61] Perpetuities and Accumulations Act 2009 (Sing.).
[62] Alberta Trusts Act R.S.A. 2000, c. T-8 (Can.); Manitoba Perpetuities Act C.C.S.M. c. P33 (Can.).
[63] Ram Baran Prasad v. Ram MohitHazra, A.I.R. 1967 S.C. 744.

the facilitation of investment, economic development, and family wealth management. India, however, has not revisited this balance since the nineteenth century.

Furthermore, India's unique socio-economic context may justify reforms that differ from, but take inspiration from, global models. For example, adopting a fixed vesting period of 80, 90, or 125 years—paired with a statutory "wait and see" doctrine—could provide predictability while accommodating modern transactions. Alternatively, India could follow the U.S. approach of relaxing the rule for commercial transactions while retaining it for private family arrangements. The Law Commission of India, in its 1958 Report on the TPA, acknowledged the outdated nature of several provisions but did not propose a modernised perpetuity framework.[64] With the growth of private trusts, infrastructure financing, and corporate property holding structures, the need for a fresh examination is far more urgent today.

The comparative landscape thus highlights a global consensus: rigid perpetuity rules no longer align with contemporary economic realities. As India positions itself as a rapidly growing economy with complex financial and property systems, reforming Section 14 is not merely desirable—it is essential. Aligning Indian perpetuity law with international developments would enhance predictability, facilitate investment, and ensure the law's continued relevance in a modern context.

6. Conclusion

The rule against perpetuity, as codified in Section 14 of the Transfer of Property Act, 1882 (TPA), has served an important historical function in preventing long-term restraints on property and curbing attempts to control wealth across successive generations. Rooted in nineteenth-century English law and transplanted into India during the colonial period, the rule reflected a time when large landholdings, hereditary estates, and feudal concepts of property dominated legal thinking.ṅ[65]Its core objective—to prevent the "dead hand" from dictating future ownership—remains normatively appealing even today. However, the socio-economic conditions, commercial structures, and property relationships of twenty-first-century India bear little resemblance to those that existed at the time of codification. This widening gap between statutory design and contemporary reality underscores the need for a comprehensive reconsideration of the rule.

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[64] Law Commission of India, Report No. 17: The Transfer of Property Act, 1882 (1958).

[65] John ChipmanGray, The Rule Against Perpetuities 1–3 (4th ed. 1942).

Judicial decisions over the last century demonstrate that Indian courts have adhered rigidly to the statute, consistently refusing to dilute its requirements even where commercial logic or equitable considerations might justify flexibility. Cases such as GirjeshDutt v. Data Din, Ram Baran Prasad v. Ram MohitHazra, and State of U.P. v. BansiDhar reaffirm that courts regard Section 14 as a mandatory statutory constraint with no scope for judicial innovation.[66] This textual fidelity, while faithful to legislative intent, has created significant tension in modern contexts involving private trusts, succession planning, long-term property development agreements, joint ventures, and corporate ownership structures.

Meanwhile, comparative developments show that several common-law jurisdictions have modernised their perpetuity frameworks to align with present-day needs. England has adopted a fixed 125-year vesting period, the United States has moved toward a 90-year statutory period and in some states complete abolition, and countries like Singapore, New Zealand, and Australia have introduced flexible doctrines such as "wait and see."[67] These reforms reflect a global recognition that strict perpetuity rules can impede economic growth, innovation in trust structures, and commercial certainty.

India's adherence to an unreformed nineteenth-century model stands in stark contrast. The rule's rigidity risks discouraging investment, complicating estate-planning strategies, and inhibiting the adoption of modern financing and property-holding mechanisms essential to India's expanding real-estate and infrastructure sectors. Moreover, the increasing use of digital assets, intellectual property rights, and technologically mediated ownership structures further exposes the limitations of a doctrine designed exclusively for land.

A balanced reform model for India need not abandon the principle underlying the rule. Instead, it could incorporate elements from comparative systems: a fixed vesting period, a statutory "wait and see" mechanism, and limited exceptions for commercial transactions. Such reforms would preserve the normative value of preventing indefinite restrictions on property while allowing the flexibility required by modern economic realities.

Ultimately, reconsidering the rule against perpetuity is not simply a doctrinal exercise but an economic necessity. A modernised framework would enhance legal certainty, promote commercial efficiency, support long-term investment structures, and ensure that Indian property law evolves in step with global developments. As India continues its trajectory as a

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[66] GirjeshDutt v. Data Din, A.I.R. 1934 P.C. 194; Ram Baran Prasad v. Ram MohitHazra, A.I.R. 1967 S.C. 744; State of U.P. v. BansiDhar, (1974) 1 S.C.C. 44.

[67] Perpetuities and Accumulations Act 2009, c. 18 (UK); Uniform Statutory Rule Against Perpetuities (USRAP) § 1 (1990) (U.S.); Perpetuities and Accumulations Act 2009 (Sing.).

major economic power, reforming Section 14 is crucial to ensuring that the law remains relevant, functional, and responsive in a rapidly changing world.