

CONSTITUTIONAL AND HUMAN RIGHTS

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VOLUME 1, ISSUE 2 (JULY- DECEMBER 2025)

ABSTRACT

India's constitutional ethos, a shining example of justice, liberty, and equality, has been dynamically reinterpreted by judicial verdicts, legislative alterations, and global pressures, redefining human rights and fundamental rights jurisprudence. This article discusses the leadership of the judiciary in redefining rights through path-breaking judgments, broadening the scope of LGBTQ+ rights. These judgments reflect the judiciary's adherence to constitutional morality rather than social customs, as seen in progressive reforms such as same-sex marriage and temple entry for women (Sabarimala, 2018). But unwarranted judicial domination through Public Interest Litigations (PILs) is problematic in terms of eroding the separation of powers. Constitutional amendments like the 86th Amendment on education have fortified socioeconomic rights, with judicial interpretations connecting Article 21 with environmental protection (MC Mehta v. Union of India, 1986)². Pieces of legislation like UAPA and AFSPA, along with preventive detention and surveillance, test privacy and liberties in the wake of Puttaswamy (2017). The digital age makes Article 19(1)(a) challenging with hate speech and regulating social media, and there is a need for legal reforms with the presence of AI and big data's effect on due process. The Citizenship Amendment Act (CAA)³ and National Register of Citizens (NRC)⁴ raises questions on citizenship and refugee rights, implying conflicts with-international human rights obligations. Socioeconomic policy such as caste-based vs. economic reservations and gender-based affirmative action seeks inclusion but is constitutionally precarious. The Uniform Civil Code debate weighs religious freedom and gender rights, and prison conditions and speedy trial rights reveal criminal justice lacunae in favour of rehabilitation over

¹ Arihant Jain, *Guru Gobind Singh Indraprastha University*.

² *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 (India).

³ *Citizenship (Amendment) Act*, No. 47 of 2019 (India).

⁴ *Citizenship Act*, 1955, as amended by the *Citizenship (Amendment) Act*, 2003 (India) (mandating the National Register of Citizens).

retribution. Internationally, India's jurisprudence is in consonance with transnational human rights movements in prioritizing socio-economic rights.

INTRODUCTION

India's Constitution, which came into force in 1950, is a living and evolving document that has been shaped by judicial interpretations, constitutional amendments, and international influences. Founded on justice, liberty, equality, and fraternity⁵, it has been a cornerstone of safeguarding fundamental rights and developing human rights jurisprudence. This article discusses the multi-dimensions of India's constitutional landscape, specifically judicial interventions, legislative trends, and international influences that have developed fundamental freedoms, socio-economic rights, and human rights protections. It analyses landmark judgments, the balance of powers, and emerging challenges in the digital and globalized world.

JUDICIAL INTERPRETATIONS REDEFINING FUNDAMENTAL RIGHTS

The Indian judiciary has taken a pioneering role in interpreting fundamental rights, primarily under Articles 14, 19, and 21 of the Constitution. In *Maneka Gandhi v. Union of India* (1978)⁶, the Supreme Court departed from the literal interpretation of Article 21 (right of life and liberty) to include due process, emphasizing that any deprivation would have to be reasonable, fair, and just. This departed from the narrow approach in *A.K. Gopalan v. State of Madras* (1950)⁷, where Article 21 was interpreted narrowly. The *Navtej Singh Johar v. Union of India* (2018)⁸ ruling decriminalized consensual homosexual relationships by invalidating Section 377 of the Indian Penal Code, declaring the right to love an integral part of Article 21. Likewise, *Shayara Bano v. Union of India* (2017)⁹ held triple talaq to be unconstitutional, affirming gender equality under Article 14. Both the judgments are the authentic examples of the judiciary's role in making constitutional rights compatible with changing societal values, sometimes going against strong-rooted norms.

The Connection Between Constitutional Reform and Basic Liberties

Constitutional amendments have made a profound impact on liberties at the core. The First Amendment (1951) brought in reasonable restrictions in terms of Article 19(2), weighing free

⁵ *Constitution of India*, pmbl. (liberty, equality, fraternity).

⁶ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

⁷ *A.K. Gopalan v. State of Madras*, 1950 SCR 88 (India).

⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India).

⁹ *Shayara Bano v. Union of India*, (2017) 9 SCC 1 (India).

speech against public order. The interaction is complex: amendments can reinforce rights but also the potential for overreach. An example is the 103rd Amendment (2019) inserting economic reservations, with debate on whether it dilutes caste-based affirmative action under Articles 15 and 16. The role of the judiciary to examine amendments, as in *Kesavananda Bharati v. State of Kerala* (1973), ensures the fundamental structure of the Constitution is not changed.

INTERNATIONAL INFLUENCE ON INDIA'S HUMAN RIGHTS JURISPRUDENCE

India's human rights jurisprudence is also directed to a significant extent by international instruments including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR)¹⁰. The judgment in *Vishaka v. State of Rajasthan* (1997),¹¹ which laid down guidelines to avoid sexual harassment at work, was guided by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Similarly, the judgment in *Puttaswamy v. Union of India* (2017), which held privacy as a constitutional right, was guided by international privacy standards, including the General Data Protection Regulation (GDPR)¹² of the European Union. Transnational human rights movements have also extended to India. International pressure for LGBTQ+ rights led Navtej Singh Johar, and environmental rights under Article 21 are concerned with international commitments on global climate change, such as the Paris Agreement. There are also tensions, however, where domestic legislation, such as the Citizenship Amendment Act (CAA), conflict with international refugee protections under the 1951 Refugee Convention, to which India is not a signatory.

THE CONSTITUTIONAL VALIDITY OF PREVENTIVE DETENTION ACTS

The Supreme Court, in *A.K. Roy v. Union of India* (1982), validated their constitutionality under Article 22 but insisted on strict procedural safeguards. Opponents contend that these acts contravene the guarantee of due process under Article 21, as extended detention without a judicial review can be abused. The judiciary has sought to balance security and freedom. In *Additional District Magistrate, Jabalpur v. Shivakant Shukla* (1976), the Court famously upheld Emergency detention, a decision later criticized. Recent decisions, including *D.K. Basu v. State of West Bengal* (1997), necessitate protection from custodial excesses, showing a cautious approach to preventive detention.

¹⁰ *International Covenant on Civil and Political Rights*, Dec. 16, 1966, 999 U.N.T.S. 171.

¹¹ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India).

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 Apr. 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, 2016 O.J. (L 119) 1 (General Data Protection Regulation).

SURVEILLANCE ACT AND THE RIGHT TO PRIVACY

The 2017 Puttaswamy judgment ruled privacy as a fundamental right under Article 21, as a reply to the challenge of surveillance laws such as the Information Technology Act, 2000, and the Aadhaar Act, 2016¹³. The Court emphasized proportionality and necessity in state surveillance while considering schemes such as the Central Monitoring System. Unclear provisions in laws such as the IT Rules, 2021, are causes of concern for unchecked data collection and bulk surveillance. Privacy and security are always a contentious balancing act. The Pegasus scandal exposed the weaknesses of online privacy, and there are demands for strong data protection legislation. The judiciary's requirement of "legitimate state interest" and "least intrusive means" in Puttaswamy is a high threshold, but implementation is behind, particularly in AI-powered surveillance.

HUMAN RIGHTS ISSUES WITH UAPA AND AFSPA

Human rights abuses have been attributed to the Armed Forces (Special Powers) Act (AFSPA)¹⁴ and the Unlawful Activities (Prevention) Act (UAPA)¹⁵. Articles 21 and 22 are violated by the UAPA's expansive definitions of "terrorism" and extended detention without bail, as demonstrated in cases such as Bhima Koregaon. When the AFSPA is used in unstable regions like Jammu & Kashmir, it gives the military broad authority, which has given rise to claims of extrajudicial executions and torture. Human rights activists contend that these laws go against the ICCPR's duties and call for changes to bring them into compliance with the constitution's guarantees of due process and liberty.

JUDICIARY AND CONSTITUTIONAL MORALITY

The judiciary has given precedence to constitutional morality over social norms, as in the 2018 Sabarimala judgment, when the women's entry into the temple was decided under Articles 14 and 25, and in the Navtej Singh Johar judgment upholding LGBTQ+ rights. These judgments demonstrate adherence to equality and dignity and thus defy patriarchal and heteronormative norms. But they also court opposition, as in the case of the Sabarimala protests, which demonstrate the clash between progressive judgments and opposition from society.

SOCIAL REFORMS THROUGH JUDICIAL INTERVENTIONS: CASE STUDIES

¹³ *Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act*, No. 18 of 2016 (India).

¹⁴ *Armed Forces (Special Powers) Act*, No. 28 of 1958 (India).

¹⁵ *Unlawful Activities (Prevention) Act*, No. 37 of 1967 (India).

Judicial activism has propelled social change. In *Vishaka*, the Court dealt with workplace harassment and created enforceable standards. *Shayara Bano* put an end to triple talaq, promoting gender justice. *Sabarimala* and *Navtej Singh Johar* dealt with religious and sexual orientation discrimination. These decisions reflect the judiciary as change-maker, but overreach can push away conservative forces, as in the *Sabarimala* review petitions.

Restrictions on Judicial Intervention

Judicial activism, especially by PILs, has extended rights but created concerns of overreach. In *Jarnail Singh v. Lachhmi Narain Gupta* (2018)¹⁶, the Court interpreted reservation policies, but critics point out such interventions as an intrusion into the legislative space. The *Kesavananda Bharati* doctrine defends judicial review without undermining democratic processes, but *Sabarimala* cases point to the danger of upsetting social harmony when courts override cultural practices.

Balancing Separation of Powers

The judicial function of reviewing legislations (*Kesavananda Bharati*) and orders of the executive (*Puttaswamy*) provides checks and balances. Excess use of PILs and decisions such as *National Judicial Appointments Commission (NJAC)*¹⁷ (2015), declaring a judicial recruitment system unconstitutional, also indicate conflicts with the legislature. The doctrine of separation of powers¹⁸ demands courts not to enter legislative and executive spheres but to safeguard rights.

Socio-Economic Rights: Health And Education

Article 21A and the Right of Children to Free and Compulsory Education Act, 2009, assure education, whereas *Bandhua Mukti Morcha v. Union of India* (1984) equated Article 21 with socio-economic rights such as health. The judiciary has imposed hospital accountability (*Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, 1996)¹⁹ but lags in implementation, considering the lack of resources and the intricacies in policy.

Euthanasia And the Right to Die

¹⁶ *Jarnail Singh v. Lachhmi Narain Gupta*, (2018) 10 SCC 396 (India).

¹⁷ *Constitution of India*, art. 124A (National Judicial Appointments Commission, repealed).

¹⁸ *Constitution of India*, arts. 50, 121–122

¹⁹ *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37 (India).

Article 21, safeguarding the right to die with dignity²⁰. The judgment balances autonomy with safeguards against abuse, as per international best practices in countries such as the Netherlands. Active euthanasia remains controversial, indicative of ethical challenges.

Death Penalty and Human Rights

The death penalty, maintained in *Bachan Singh v. State of Punjab* (1980) on the "rarest of rare" doctrine, is challenged for violating Article 21 and ICCPR norms. *Shatrughan Chauhan v. Union of India* (2014) raised the issue of mercy petitions and mental health, opening the door to a move towards life imprisonment and rehabilitation rather than retribution. Article 19(1)(a) in the Digital Age. Article 19(1)(a) promises free speech, but social media platforms promote hate speech, and hence, the need for their regulation. The *Shreya Singhal v. Union of India* (2015) ruling struck down Section 66A of the IT Act for vagueness reasons, safeguarding online speech. IT Rules, 2021, introduce content moderation, and hence, the peril of censorship. Balancing free speech and public order is still an issue.

Social Media and Legal Reforms

Social media platforms, unregulated by the law as it stands, facilitate hate speech and misinformation. The *Anuradha Bhasin v. Union of India* (2020)²¹ judgment prioritized access to the internet under Article 19 but intermediary liability under IT Rules, 2021, is risk of overreach. Legal reform must balance responsibility without suppressing expression.

Caste-Based Vs. Economic Reservations

The 103rd Amendment added economic reservations with debates regarding dilution of caste-based quotas under Articles 15 and 16. *Indra Sawhney v. Union of India* (1992) set the limit on reservations at 50%, but economic considerations complicate this system. The judiciary must find a balance between equality and affirmative action for the marginalized group.

Gender-Based Affirmative Action

Reservations on the basis of gender, i.e., in panchayats (73rd Amendment), are constitutionally valid under Article 15(3). *Joseph Shine v. Union of India* (2018)²², which legalized adultery, furthered gender equality. Policies, however, should not be symbolic and against systemic barriers to ensure substantive equality.

Inclusion Of Marginalized Communities

²⁰ *Common Cause v. Union of India*, (2018) 5 SCC 1 (India) (recognizing right to die with dignity under Article 21).

²¹ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637 (India).

²² *Joseph Shine v. Union of India*, (2019) 3 SCC 39 (India).

Legislative and judicial actions, such as Navtej Singh Johar and Scheduled Castes/Tribes reservations, guarantee inclusion. The Transgender Persons (Protection of Rights) Act, 2019, is a welcome move, but implementation loopholes as well as social stigma continue and strong legal frameworks are needed.

Article 21 And Ecological Protection

The courts have also associated Article 21 with environmental rights, as for instance in MC Mehta v. Union of India (1986), where pollution was brought under control. PILs have promoted environmental accountability, albeit with uneven application.

PILs And Environmental Activism

PILs have played a crucial role in environmental law, with judgments such as T.N. Godavarman Thirumulpad v. Union of India (1997)²³ safeguarding forests. Judicial overuse of PILs, however, risks judicial encroachment, making them ineffective. The judiciary has to be activist with restraint.

Corporate Responsibility and Climate Litigation

Climate change suits such as Vellore Citizens Welfare Forum v. Union of India (1996)²⁴ hold companies to account under the polluter-pays principle. India's commitments under the Paris Agreement require more robust legal regimes in an attempt to mitigate corporates' environmental effects.

Personal Laws and Uniform Civil Code

The UCC controversy pits the mandate of Article 44 against religious freedom under Article 25. Clashes between women's rights and personal laws are found by Shayara Bano and Sabarimala. The courts must balance pluralism and secularism, as in hijab ban cases, in order to ensure equality without compromising diversity of culture.

Secularism And Pluralism

India's secular constitutional model, backed by Articles 25-28, has to reconcile religious freedom with equality. S.R. Bommai v. Union of India (1994) reasserted secularism as a constitutional model, but hijab ban cases (Aishat Shifa v. State of Karnataka, 2022)²⁵ challenge the equilibrium, necessitating circumspect judicial interpretation.

CAA-NRC And Human Rights

²³ T.N. Godavarman Thirumulpad v. Union of India, (1997) 2 SCC 267 (India).

²⁴ Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647 (India).

²⁵ Aishat Shifa v. State of Karnataka, (2022) SCC OnLine SC 1117 (India).

The Citizenship Amendment Act (2019)²⁶ and National Register of Citizens have also created human rights issues, which could make minorities stateless. They are accused of violating Article 14 and ICCPR standards by critics. The judiciary's ongoing consideration of CAA's constitutionality will be crucial to address these issues.

Refugees And Asylum Seekers

India has no domestic refugee law and depends on ad hoc policy through the Foreigners Act, 1946. The NHRC v. State of Arunachal Pradesh (1996)²⁷ judgment shielded Chakma refugees under Article 21, but the gaps in adherence to the 1951 Refugee Convention still render asylum seekers exposed.

International Obligations and Domestic Principles

India's non-signatory position on important treaties such as the Refugee Convention generates tensions with the domestic rights under Article 21. The court, in Vishaka and Puttaswamy, has attempted to bridge this gap by applying international norms, but concerns of sovereignty censure full convergence.

Prison Conditions and Custodial Rights

Unhygienic jail conditions contravene Article 21, as emphasized in D.K. Basu. Custodial torture and overcrowding demonstrate systemic failure. The Sunil Batra v. Delhi Administration (1978) case judgment demanded human treatment, but its enforcement is weak.

Right to Speedy Trial and Bail

Bail jurisprudence, as in Gurbaksh Singh Sibbia v. State of Punjab (1980)²⁸ values freedom, but the delay and harsh laws such as UAPA erode such protection.

Rehabilitation over Retribution

The retributive focus of the criminal justice system, as manifest in the death penalty, stands in contrast to orientations towards rehabilitation. Parmanand Katara v. Union of India (1989) emphasized the dignity of prisoners, and encouraged restorative justice. Reforms like victim compensation schemes track international human rights trends.

The Global Transformation to Socio-Economic Rights

²⁶ Citizenship (Amendment) Act, No. 47 of 2019 (India).

²⁷ National Human Rights Commission v. State of Arunachal Pradesh, (1996) 1 SCC 742 (India).

²⁸ Gurbaksh Singh Sibbia v. State of Punjab, (1980) 2 SCC 565 (India).

Globally, socio-economic rights like health and education are gaining ground as integral. India's judiciary, through Bandhua Mukti Morcha and Article 21A, points to this trend in spite of resource limitations to universal access.

Transnational Human Rights Movements

Transnational movements to the climate movement have impacted the jurisprudence of India. Vishaka and environmental PILs draw inspiration from global standards, but the specificity of India's socio-culture demands specific application of such norms.

Constitutional Courts in the Twenty-First Century

Constitutional courts continue to be the custodians of human rights, grappling with difficult issues such as AI, global warming, and social justice. Their activist role, as evident in Puttaswamy and Sabarimala, ensures that rights adapt to the demands of society, but restraint is necessary to ensure democratic equipoise.

CONCLUSION

India's human rights and constitutional jurisprudence reflects an engaged conversation between legislative reforms, judicial activism, and international inputs. While, on the one hand, landmark judgments have extended the horizon of constitutional rights, surveillance, restricting legislations, and socioeconomic inequalities continue to be ubiquitous. The contribution of the judiciary towards the application of constitutional morality and balancing conflicting interests remains crucial to navigating the 21st-century human rights terrain. Constitutional and human rights are the very heartbeat of a society that dares call itself free. More than a legalistic proviso or the subject of courtroom controversy, they are the solemn promise we make to recognize every individual's inherent dignity. These rights—written in constitutions and reasserted in universal declarations—are not freedoms granted by the mighty but the unalienable right of all people, as firm as the ground we stand on. They guarantee our liberty to speak truths that challenge minds, to worship or doubt according to conscience, to love without limit, and to tread through life under the sheltering shadow of liberty. But their true strength is not so much in ink on paper as in our shared strength to protect them—through courage in the face of injustice, through compassion for the downtrodden, and through an unyielding devotion to equality. In a world too often torn apart by division and greed, these rights are our beacon, calling on us to build communities where dignity is not a privilege but a fundamental right, where all persons are heard, seen, and fiercely defended. They call on us to rise above indifference, to weave fairness

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into the very foundation of our laws, and to make certain that no person is left behind in their pursuit of humanity.

