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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **ROLE OF JUDICIARY FOR THE PROTECTION OF HUMAN RIGHTS IN INDIA: AN ANALYTICAL STUDY**

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## **Abstract**

*This paper explores the pivotal role of the Indian judiciary in the recognition, protection, and promotion of human rights. Grounded in the constitutional framework, particularly Part III (Fundamental Rights) and supported by Part IV (Directive Principles of State Policy), the judiciary has expanded the ambit of human rights through progressive interpretation, particularly under Article 21. The evolution of Public Interest Litigation (PIL) has been instrumental in democratizing access to justice, enabling the courts to address violations affecting marginalized communities and ensure state accountability. Landmark judgments such as Maneka Gandhi, Vishaka, and Justice K.S. Puttaswamy illustrate the judiciary's proactive stance in safeguarding civil, political, and socio-economic rights.*

*The paper also examines the judiciary's role in curbing state excesses, including custodial violence, fake encounters, and misuse of preventive detention laws. Furthermore, it highlights how international human rights standards have been integrated into domestic jurisprudence, even in the absence of enabling legislation.*

*Despite these achievements, the paper offers a critical appraisal of the judiciary's limitations, such as massive case backlogs, delayed enforcement, lack of judicial accountability, and concerns over judicial overreach. Structural challenges like inadequate infrastructure, procedural complexities, and limited accessibility also persist.*

*The study concludes that while the judiciary has emerged as a powerful guardian of human rights, meaningful realization of these rights requires urgent institutional reforms. These include streamlining judicial processes, enhancing accountability, improving infrastructure, and ensuring effective implementation of rights-based decisions. Only through such reforms can the judiciary continue to uphold its constitutional mandate and safeguard the dignity, liberty, and equality of all individuals.*

**Key Words:** Indian Judiciary, Human Rights, Fundamental Rights, Directive Principles, International Human Rights, Access to Justice.

## Introduction

Human rights, by their very nature, are inherent, inalienable, and universal entitlements that ensure dignity, liberty, and equality for every individual. Encompassing both civil and political liberties as well as economic, social, and cultural rights, they form the bedrock of a just and humane society. In India, the protection and promotion of human rights find their strongest legal expression in the Constitution, particularly through the Fundamental Rights enshrined in Part III and supported by the Directive Principles of State Policy in Part IV. However, beyond the written word, it is the Indian judiciary that has played a transformative role in breathing life into these constitutional promises.

Through innovative mechanisms such as Public Interest Litigation (PIL) and expansive interpretations of Article 21, the judiciary has not only widened the scope of rights but has also provided effective remedies to vulnerable and marginalized sections of society. Landmark decisions have tackled issues ranging from bonded labour and custodial violence to privacy and sexual harassment at the workplace. The courts have also drawn upon international human rights instruments to fill legislative gaps, reinforcing their role as proactive defenders of individual freedoms and social justice.

Yet, this vital role is not without its challenges. The judiciary is increasingly burdened by mounting case backlogs, delayed enforcement, and infrastructural limitations. Concerns over judicial overreach, lack of transparency in appointments, and the absence of an effective accountability mechanism further complicate its functioning. Despite these hurdles, the Indian judiciary remains a cornerstone of the nation's human rights architecture.

This paper seeks to critically examine the multifaceted role of the Indian judiciary in human rights protection. It evaluates its contributions, assesses the limitations, and emphasizes the need for systemic reforms to enhance the effectiveness and credibility of the justice delivery system in safeguarding the fundamental rights of all citizens.

## What Are Human Rights?

Human rights are the basic rights and freedoms that belong to every individual simply by virtue of being human. They are universal, inalienable, and apply to all people regardless of race, sex, nationality, ethnicity, language, religion, or any other status. These rights are not granted by any state or authority; rather, they are inherent to all human beings and must be respected and protected in all circumstances.<sup>1</sup>

Human rights encompass a broad range of entitlements essential for a life of dignity and equality. They include civil and political rights such as the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, and the right to participate in government. Equally important are economic, social, and cultural rights, including the rights to education, work, food, health, and an adequate standard of living.

These rights are indivisible and interdependent—denial of one right often impairs the enjoyment of others. They serve as the foundation for freedom, justice, and peace in the world. Everyone is entitled to these rights without discrimination, and their protection is a shared responsibility of individuals, states, and international institutions. In essence, human rights are what make life not just possible, but worth living.<sup>2</sup>

The revered couplet by Goswami Tulsidas — परहित सरिस धरम नहिं भाई। परपीड़ा सम नहिं अधमार्ई ॥, urges humanity to cultivate compassion and selflessness. Among all, it is especially incumbent upon judges, as guardians of justice, to internalize and embody these noble ideals in both their personal and professional conduct.<sup>3</sup>

## Constitutional Foundation of Human Rights in India

The Indian Constitution is the bedrock of human rights protection in the country, reflecting both international principles and indigenous values of dignity, equality, and justice. At its core, the Constitution guarantees Fundamental Rights under Part III, which form the direct

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<sup>1</sup> United Nations Human Rights, *available at*: <https://www.ohchr.org/en/what-are-human-rights> (Last visited on June 04, 2025)

<sup>2</sup> United Nations, *available at*: <https://www.un.org/en/global-issues/human-rights> (Last visited on June 04, 2025)

<sup>3</sup> Ambika Pant, ROLE OF COURTS IN PROTECTION OF HUMAN

RIGHTS, <https://cdnbbsr.s3waas.gov.in/s37a68443f5c80d181c42967cd71612af1/uploads/2025/03/202503191546832905.pdf>

expression of human rights in the Indian legal framework.

Among these, Article 14 ensures equality before the law and equal protection of the laws to all persons, establishing a foundation for non-discrimination and fairness. Article 19 guarantees crucial freedoms such as speech and expression, assembly, association, movement, residence, and profession, which are essential for a free society. Article 21, interpreted expansively by the judiciary, protects the right to life and personal liberty and has come to encompass a wide range of rights including the right to privacy, health, education, and a pollution-free environment. Article 22 safeguards the rights of individuals under arrest, ensuring protection against arbitrary detention.<sup>4</sup>

The Directive Principles of State Policy (Part IV) are not just guidelines but represent the socio-economic dimension of human rights. Although non-justiciable, the Supreme Court and High Courts have creatively interpreted the Fundamental Rights in light of these principles, thereby enforcing rights like education<sup>5</sup> (Article 21-A), livelihood, and health through judicial activism. Articles 32 and 226 provide the Right to Constitutional Remedies, empowering individuals to directly approach the Supreme Court and High Courts respectively for enforcement of fundamental rights. Dr. B.R. Ambedkar famously called Article 32 the “heart and soul” of the Constitution.<sup>6</sup>

The Preamble of the Constitution, though not enforceable, is a guiding light in constitutional interpretation. Its emphasis on *Justice, Liberty, Equality, and Dignity* underscores the commitment of the Indian State to human rights and the overall well-being of its citizens.<sup>7</sup>

Thus, the Indian Constitution provides a comprehensive framework for the protection, promotion, and realization of human rights, reinforced through progressive judicial interpretation.

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<sup>4</sup> *The Constitution of India*, arts. 14, 19, 21, 22.

<sup>5</sup> *Unni Krishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178

<sup>6</sup> Abhay Saxena, Why is Article 32 of the Constitution of India Regarded as the Heart and Soul of the Indian Constitution?, available at: <https://libertatem.in/articles/why-is-article-32-of-the-constitution-of-india-regarded-as-the-heart-and-soul-of-the-indian-constitution/>, (Last Visited on June 06, 2025)

<sup>7</sup> *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

## Judicial Review and Human Rights

One of the most significant contributions of the Indian judiciary in the realm of human rights has been the development of Judicial Activism through the mechanism of Public Interest Litigation (PIL). Judicial activism refers to the proactive role of courts in enforcing rights and ensuring justice, particularly where legislative and executive organs may have failed. The advent of PIL has democratized access to justice by relaxing the traditional rules of *locus standi*, enabling even third parties to file petitions on behalf of marginalized and disadvantaged sections of society.<sup>8</sup>

The evolution of PIL began in the late 1970s and early 1980s under the visionary leadership of judges like Justice P.N. Bhagwati and Justice V.R. Krishna Iyer. The judiciary expanded its role from a mere adjudicator of disputes to a protector of the public interest. This innovation allowed issues like bonded labor, prison conditions, environmental degradation, and women's rights to come under judicial scrutiny, even without individual petitioners.<sup>9</sup>

The scope of Article 21 of the Constitution—"No person shall be deprived of his life or personal liberty except according to procedure established by law"—was significantly widened during this period<sup>10</sup>. The right to life was interpreted not in a narrow sense but as encompassing a variety of rights that make life meaningful and dignified. These included the right to food, health, education, shelter, privacy, and a clean environment.

Several landmark judgments illustrate this judicial evolution:

*Maneka Gandhi v. Union of India* (1978)<sup>11</sup>: The Supreme Court held that the procedure under Article 21 must be just, fair, and reasonable, marking a shift from formal legality to substantive due process.

*Hussainara Khatoon v. State of Bihar* (1979)<sup>12</sup>: This case highlighted the plight of undertrial prisoners and led to the recognition of the right to a speedy trial as part of Article 21.

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<sup>8</sup> S.P. Sathe, *Judicial Activism: The Indian Experience, Volume 6*, Washington University Journal of Law & Policy.

<sup>9</sup> Justice P.N. Bhagwati, *Judicial Activism and Public Interest Litigation*, 23 Columbia Journal of Transnational Law, p. 561 (1985).

<sup>10</sup> *Francis Coralie Mullin v. Union Territory of Delhi*, AIR 1981 SC 746.

<sup>11</sup> AIR 1978 SC 597.

<sup>12</sup> AIR 1979 SC 1360.

*Vishaka v. State of Rajasthan* (1997)<sup>13</sup>: In the absence of legislation on sexual harassment at the workplace, the Court laid down binding guidelines to protect women's rights under Articles 14, 15, 19, and 21.

*Justice K.S. Puttaswamy v. Union of India* (2017)<sup>14</sup>: The Court declared the right to privacy as a fundamental right under Article 21, reinforcing individual autonomy in the digital age.

Through PIL and judicial activism, the Indian judiciary has emerged as a powerful guardian of human rights, ensuring that constitutional promises are transformed into tangible entitlements for all citizens.

### **Role of Judiciary in Protection against State Excesses**

The judiciary plays a critical role in safeguarding human rights against the arbitrary and excessive actions of the state. Through vigilant interpretation and enforcement of constitutional provisions, Indian courts have consistently intervened in cases involving custodial torture, fake encounters, unlawful detention, and misuse of emergency powers, thereby ensuring that the state remains within the bounds of legality and constitutional morality.

Custodial violence and torture have long been persistent human rights concerns in India. The judiciary, recognizing the vulnerability of individuals in state custody, has issued stern directives to curb such abuses. In *D.K. Basu v. State of West Bengal* (1997)<sup>15</sup>, the Supreme Court laid down comprehensive guidelines for arrest and detention, mandating the presence of relatives during interrogation, medical examination of detainees, and the maintenance of arrest records to prevent custodial torture and deaths. Similarly, in *Nilabati Behera v. State of Orissa* (1993)<sup>16</sup>, the Court granted compensation to the victim's family, reinforcing the principle of state accountability for custodial deaths.

Fake encounter killings, often presented as legitimate police action, have also attracted judicial scrutiny. In *People's Union for Civil Liberties v. State of Maharashtra* (2014)<sup>17</sup>, the Supreme Court framed detailed guidelines for investigating police encounters, ensuring transparency,

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<sup>13</sup> AIR 1997 SC 3011.

<sup>14</sup> *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

<sup>15</sup> AIR 1997 SC 610.

<sup>16</sup> AIR 1993 SC 1960

<sup>17</sup> CDJ 2014 SC 831.

judicial oversight, and mandatory FIR registration.

The judiciary has also acted as a safeguard against preventive detention laws and emergency powers that have historically been prone to misuse. Even though preventive detention is constitutionally permitted under Article 22, the courts have ensured strict compliance with procedural safeguards and have struck down detentions lacking substantive justification. During the Emergency (1975–77), the judiciary initially faltered in *ADM Jabalpur v. Shivkant Shukla* (1976)<sup>18</sup>, where it denied the right to habeas corpus. However, this position was later overruled and widely criticized as antithetical to the constitutional promise of liberty.

Furthermore, the judiciary has worked in tandem with bodies like the National Human Rights Commission (NHRC), often relying on its reports and recommendations to uphold custodial rights and prevent abuse of authority. The Court has directed regular judicial and magistrate visits to detention centers and prisons to ensure compliance with human rights standards.

In sum, the judiciary has emerged as a bulwark against state excesses, reinforcing the notion that no arm of the state is above the Constitution and that liberty must be preserved even in the face of public interest or national security concerns.

### **International Human Rights Obligations and the Judiciary**

The Indian judiciary has played a pivotal role in integrating international human rights norms into domestic jurisprudence, especially in the absence of explicit legislation. While India follows the dualist system—meaning international treaties are not directly enforceable unless incorporated into domestic law—the judiciary has creatively interpreted constitutional provisions in harmony with international obligations to fill legal gaps and enhance human rights protection.

Article 51(c) of the Indian Constitution enjoins the State to “foster respect for international law and treaty obligations.” Although this provision is part of the non-justiciable Directive Principles, the Supreme Court has frequently invoked it to interpret Fundamental Rights in line with international conventions, particularly when there is no conflict with existing domestic

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<sup>18</sup> AIR 1976 SC 1207.

law.<sup>19</sup>

In *Vishaka v. State of Rajasthan* (1997)<sup>20</sup>, the Supreme Court relied on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to frame binding guidelines for the prevention of sexual harassment at the workplace, filling a legislative vacuum at the time. Similarly, in *Githa Hariharan v. Reserve Bank of India* (1999)<sup>21</sup>, the Court interpreted personal laws concerning guardianship by drawing from international human rights standards on gender equality.

The judiciary has also referenced instruments like the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) in cases involving rights to privacy, fair trial, and child welfare. This approach affirms the Court's commitment to ensuring that Indian law reflects evolving global human rights standards.<sup>22</sup>

Thus, even in the absence of direct enforceability, Indian courts have used international human rights instruments as persuasive tools to strengthen the constitutional vision of justice, equality, and dignity.

### **Public Interest Litigation (PIL): A Tool for Access to Justice**

Public Interest Litigation (PIL) has revolutionized the judiciary's role in human rights protection by democratizing access to justice. It allows courts to entertain cases filed by public-spirited individuals or organizations on behalf of marginalized or disadvantaged groups. By relaxing the traditional rules of locus standi, PIL has enabled the judiciary to address systemic human rights violations, thereby making justice more accessible to the underprivileged.<sup>23</sup>

The landmark case of *S.P. Gupta v. Union of India* (1981) marked the beginning of the PIL era, where the Supreme Court recognized the right of individuals to approach the Court on behalf of those who are unable to do so themselves<sup>24</sup>. Since then, PILs have addressed wide-

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<sup>19</sup> *The Constitution of India*, Article 51(c), Directive Principles of State Policy.

<sup>20</sup> *Supra* note 13.

<sup>21</sup> AIR 1999 SC 1149.

<sup>22</sup> Enakshi Ganguly Thukral and Anant Kumar Asthana "Litigating the Rights of the Child The UN Convention on the Rights of the Child in Domestic and International Jurisprudence", ResearchGate.

<sup>23</sup> Upendra Baxi, *Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India*, Third World Legal Studies, Vol. 4, 1985

<sup>24</sup> AIR 1982 SC 149

ranging issues including bonded labor, child labor, environmental degradation, and gender-based violence, significantly expanding the judiciary's human rights mandate.

In *Vishaka v. State of Rajasthan* (1997)<sup>25</sup>, the Supreme Court laid down guidelines to prevent sexual harassment at the workplace, relying on international conventions like CEDAW in the absence of domestic legislation. This judgment not only safeguarded women's rights but also demonstrated the Court's proactive stance in filling legal gaps.

Similarly, in *Olga Tellis v. Bombay Municipal Corporation* (1985)<sup>26</sup>, the Court held that the right to livelihood is an integral part of the right to life under Article 21, thereby preventing the eviction of pavement dwellers without proper rehabilitation.

These and many other PIL cases have empowered the Indian judiciary to address systemic injustices, thereby transforming it into a guardian of the marginalized and a champion of socio-economic rights.

### **Critical Appraisal: Limitations and Challenges**

While the Indian judiciary has been instrumental in the advancement of human rights, it is not without significant limitations and systemic challenges. A critical appraisal reveals structural, procedural, and conceptual issues that impact the judiciary's ability to serve as an effective guardian of human rights.

One of the most pressing concerns is the delay in justice delivery. Indian courts are burdened with a massive backlog of cases—over 4.5 crore as of 2024.<sup>27</sup> This delays relief for victims of human rights violations and often results in justice being denied in practical terms. Even in Public Interest Litigations (PILs), where urgent redress is sought, procedural delays often dilute the intended impact.

Another major limitation is the inconsistent enforcement of socio-economic rights, such as health, housing, and education. While courts have recognized these under Article 21, the

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<sup>25</sup> *Supra* note 13

<sup>26</sup> AIR 1986 SC 180

<sup>27</sup> National Judicial Data Grid (NJDG), 2024. available at: [https://njdg.ecourts.gov.in/njdg\\_v3/](https://njdg.ecourts.gov.in/njdg_v3/) (Last visited on June 06, 2025)

implementation often remains weak due to lack of political will, budgetary constraints, or administrative inefficiency. For example, despite the right to education being constitutionally mandated, quality and accessibility remain uneven.

There is also an ongoing debate around judicial activism versus judicial overreach. While proactive judgments have led to significant reforms, critics argue that courts sometimes encroach upon the domain of the legislature or executive. This raises concerns about the separation of powers and democratic legitimacy.<sup>28</sup>

Moreover, the lack of judicial accountability further compounds the problem. Unlike other public institutions, the judiciary lacks an effective and transparent mechanism for evaluating judicial performance or addressing misconduct. Reforms such as the long-pending Judicial Standards and Accountability Bill remain stalled.<sup>29</sup>

To strengthen the judiciary's role in human rights protection, there is an urgent need for institutional reform, including improved infrastructure, better case management systems, performance evaluation of judges, and greater transparency in judicial appointments.

### **Challenges Faced by the Judiciary in Human Rights Protection**

Despite its pivotal role in upholding constitutional values and human rights, the Indian judiciary grapples with several systemic and functional challenges that undermine its effectiveness. These challenges affect not only the delivery of justice but also public trust in the legal system. **Judicial Delay and Case Backlog:** The Indian judicial system is notoriously overburdened, with over 4.5 crore cases pending across all levels of courts as of 2024. Such delays not only frustrate the principle of timely justice but also erode the effectiveness of human rights protection. Victims of rights violations often wait years for resolution, during which the very purpose of relief may be lost.

**Limited Enforcement of Socio-Economic Rights:** Although the judiciary has interpreted Article 21 expansively to include rights like health, education, and shelter, the enforcement of these socio-economic rights remains patchy. Structural limitations such as insufficient

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<sup>28</sup> Arpita Saha, *JUDICIAL ACTIVISM IN INDIA: A NECESSARY EVIL*, SSRN-1156979

<sup>29</sup> Law Commission of India, *230<sup>th</sup> Report on REFORMS IN THE JUDICIARY – SOME SUGGESTIONS*, 2009, (August 2009).

resources, weak governance, and executive apathy frequently hinder implementation, making judicial declarations ineffectual in real terms.

**Judicial Overreach and Separation of Powers:** The judiciary has faced criticism for allegedly overstepping its domain, particularly in cases involving detailed policy directions or administrative matters. While judicial activism has played a key role in filling legislative gaps, instances of overreach can dilute the principle of democratic governance and blur institutional boundaries.

**Lack of Judicial Accountability:** India lacks a transparent and robust mechanism to hold judges accountable. There is no statutory code of conduct, and proceedings against judges for misconduct are rare and opaque. This undermines the credibility of the institution and makes the judiciary appear immune from the checks and balances that bind other democratic organs.

**Accessibility and Affordability Issues:** High litigation costs, complex procedures, and geographical inaccessibility continue to keep the poor and marginalized away from the justice system. While PILs have mitigated this to some extent, the structural barriers remain deeply entrenched.

**Infrastructure and Technological Deficiencies:** Many courts, especially at the district and subordinate levels, suffer from inadequate infrastructure, lack of digital tools, and poor working conditions. This hampers the speed and quality of justice delivery and prevents effective record-keeping and case management.

### **Conclusion**

The Indian judiciary has played an undeniably transformative role in the recognition, protection, and promotion of human rights. From expanding the scope of Article 21 to incorporating international human rights standards into domestic jurisprudence, the judiciary has emerged as a proactive guardian of individual liberty and social justice. Mechanisms such as Public Interest Litigation (PIL) have democratized access to justice and empowered vulnerable and marginalized sections of society. Through landmark judgments, the courts have held the State accountable, curbed custodial violence, protected socio-economic rights, and reaffirmed constitutional morality.

However, this powerful role is not without its limitations. The staggering backlog of cases, inconsistent enforcement of socio-economic rights, concerns of judicial overreach, and the lack of a robust accountability framework pose significant challenges. Moreover, inadequate infrastructure, high litigation costs, and limited accessibility hinder the judiciary's effectiveness in delivering timely and meaningful justice to all.

To sustain and strengthen the judiciary's pivotal role in human rights protection, comprehensive institutional reforms are essential. These must include streamlining judicial processes, enhancing court infrastructure, introducing transparent mechanisms for judicial accountability, and ensuring that rights recognized by the courts are meaningfully implemented on the ground. Only through such holistic reforms can the promise of constitutional human rights be fully realized and the judiciary continue to serve as a bulwark against injustice, inequality, and state excess.

