



ISSN: 2583-7753

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 2

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.248>

© 2026 LawFoyer International Journal of Doctrinal Legal Research

Follow this and additional research works at: www.lijdlr.com

Under the Platform of LawFoyer – www.lawfoyer.in

After careful consideration, the editorial board of LawFoyer International Journal of Doctrinal Legal Research has decided to publish this submission as part of the publication.

In case of any suggestions or complaints, kindly contact (info.lijdlr@gmail.com)

To submit your Manuscript for Publication in the LawFoyer International Journal of Doctrinal Legal Research, To submit your Manuscript [Click here](#)

ROLE OF JUDICIARY IN THE PROTECTION OF HUMAN RIGHTS IN INDIA

Yashika Walia¹ & Parul Singh²

I. ABSTRACT

The value of human rights becomes meaningful only when legal guarantees are supported by effective and enforceable remedies. In India, the judiciary has played a decisive role in transforming constitutional promises into practical protection through judicial review, writ jurisdiction, public interest litigation and purposive interpretation of fundamental rights. This dissertation examines the role of the Supreme Court of India and the High Courts in protecting human rights, with particular reference to Articles 32, 226 and 21 of the Constitution. It traces the doctrinal development of Indian human-rights jurisprudence through leading decisions including Kesavananda Bharati, Maneka Gandhi, Hussainara Khatoon, Olga Tellis, Vishaka, D.K. Basu, Justice K.S. Puttaswamy and Navtej Singh Johar. The study adopts a doctrinal and analytical methodology based on constitutional provisions, statutes, landmark judgments, international human-rights instruments and selected scholarly literature. It argues that the judiciary has been most effective where it has widened access to justice, protected vulnerable groups, restrained executive arbitrariness and interpreted life and liberty in terms of dignity, fairness and autonomy. At the same time, judicial protection is limited by implementation deficits, docket pressure, institutional capacity and the need to respect separation of powers. The dissertation concludes that while the Indian judiciary remains central to the protection of human rights, sustainable protection requires legal aid, administrative accountability, legislative support, police and prison reform, rights education and faithful adherence to constitutional values.

II. KEYWORDS

Human Rights; Indian Judiciary; Article 21; Public Interest Litigation; Judicial Review.

¹ LL.M, 2nd Semester, Student at Rayat Bahra University (India). Email: advyashikawalia000@gmail.com

² Assistant Prof. at Rayat Bahra University (India).

III. INTRODUCTION

A. Statement Of Problem and Review of Literature

1. Statement of the Research Problem

The principal research problem concerns the gap between constitutional recognition of human rights and their practical enjoyment. Although India has a strong constitutional rights framework, violations continue in the form of custodial violence, prolonged detention without trial, discrimination, gender-based violence, forced eviction, labour exploitation, environmental degradation and administrative arbitrariness. Many victims are poor, detained, illiterate or socially marginalised and cannot easily approach courts. The central issue is therefore how far the judiciary has bridged the gap between rights and reality, and where judicial protection remains limited by delay, weak enforcement, lack of institutional capacity and concerns relating to separation of powers.

2. Review of Related Literature

Granville Austin's account of the Indian Constitution as a social-revolution document helps explain why courts have often interpreted rights in the light of social justice.³ H.M. Seervai's constitutional scholarship emphasises doctrinal discipline and the need to ground judicial review in constitutional text.⁴ Upendra Baxi's work on social-action litigation highlights the emancipatory potential of public interest litigation while cautioning against unstructured judicial managerialism.⁵ M.P. Jain and V.N. Shukla provide systematic accounts of fundamental rights and constitutional remedies in Indian constitutional law.⁶ International human-rights instruments such as the Universal Declaration of Human Rights and the two International Covenants

³ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press 1966).

⁴ H.M. Seervai, *Constitutional Law of India* (Universal Law Publishing 1991).

⁵ Upendra Baxi, *Courage, Craft and Contention: The Indian Supreme Court in the Eighties* (N.M. Tripathi 1985).

⁶ M.P. Jain, *Indian Constitutional Law* (LexisNexis, latest available edition); V.N. Shukla, *Constitution of India* (Eastern Book Company, latest available edition).

also assist courts in interpreting domestic constitutional guarantees where the norms are compatible with constitutional values.⁷

3. Research Gap

Existing literature often examines public interest litigation, Article 21 or landmark judgments separately. However, a more integrated inquiry is necessary to understand how the judiciary protects human rights in India through constitutional remedies, judicial review, expanded standing, dignity-based interpretation and institutional restraint. A further gap relates to implementation. Many judgments declare rights, but practical protection depends on police authorities, prison administrations, employers, regulators, local bodies and legal-aid institutions. This dissertation therefore examines not only judicial principles but also the effectiveness and limits of judicial intervention.

4. Need for the Present Study

The present study is necessary because human-rights issues are continuously evolving. Digital privacy, surveillance, gender identity, environmental harm, prison reform, workplace safety and access to justice require courts to apply established constitutional principles to new realities. Decisions such as *Maneka Gandhi*, *Justice K.S. Puttaswamy* and *Navtej Singh Johar* demonstrate that constitutional interpretation must remain responsive without abandoning doctrinal discipline.⁸ A balanced study can help determine when judicial activism strengthens constitutional democracy and when institutional restraint is necessary.

B. Research Objectives, Hypotheses and Methodology

1. Research Objectives

The study aims to analyse the role of the Indian judiciary in protecting human rights through judicial review, writ jurisdiction, public interest litigation and constitutional interpretation. It also examines the expansion of Article 21 to include dignity, fair

⁷ Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966.

⁸ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

procedure, speedy trial, livelihood, privacy and environmental protection. Another objective is to evaluate landmark judicial decisions, assess the strengths and limitations of judicial activism and suggest reforms for more effective human-rights protection.

2. Research Questions

The study is guided by the following research questions: how has the judiciary interpreted the Constitution for the protection of human rights in India; how do Articles 32, 226 and 21 operate as remedial and substantive safeguards; how has public interest litigation expanded access to justice; how have international human-rights norms influenced domestic interpretation; and what limits arise from weak implementation, docket pressure and separation of powers? These questions are interconnected because judicial protection depends on both the substantive content of rights and the practical availability of remedies.

3. Hypotheses of the Study

The primary hypothesis is that the Indian judiciary has substantially strengthened human-rights protection through purposive interpretation of fundamental rights, expansion of Article 21, liberalisation of locus standi and enforcement of constitutional remedies for vulnerable groups. The secondary hypothesis is that judicial protection remains incomplete where executive implementation is weak, legal aid lacks capacity, institutional delays are excessive and courts enter policy domains without clear constitutional standards. Judicial activism is therefore legitimate where it enforces constitutional rights in a principled and institutionally sensitive manner.

4. Research Methodology

The dissertation adopts a doctrinal and analytical research methodology. It studies constitutional provisions, statutory materials, international human-rights instruments and leading judicial decisions relating to human-rights protection. The primary sources include the Constitution of India, the Protection of Human Rights Act, 1993, the Sexual Harassment of Women at Workplace (Prevention, Prohibition and

Redressal) Act, 2013 and landmark decisions of the Supreme Court of India.⁹ Secondary sources include scholarly books, articles and institutional materials. The study does not use fabricated empirical data or unsupported statistics; it proceeds through legal, doctrinal and evaluative analysis.

5. Research Design

The study is organised into six chapters. The first chapter introduces the topic and constitutional framework. The second states the research problem, reviews the relevant literature and identifies the research gap. The third outlines the objectives, research questions, hypotheses, methodology, design and limitations. The fourth examines constitutional remedies, public interest litigation, judicial activism and the expansion of Article 21. The fifth analyses the judiciary's contribution to selected human rights. The sixth presents findings, recommendations and conclusion. The design moves from conceptual foundations to doctrinal analysis and finally to critical assessment.

6. Scope and Limitations of the Study

The scope of the study is limited to the role of the judiciary in India, particularly the Supreme Court of India and the High Courts. It focuses on constitutional remedies, public interest litigation and selected rights under Article 21. It does not provide a quantitative survey of all cases or an empirical evaluation of every institution involved in human-rights protection. It also does not claim that courts alone can secure human rights. The study is doctrinal and selective, and it identifies principles, trends and limitations through landmark judgments and constitutional materials.

IV. BACKGROUND OF THE STUDY

Human rights form the moral and legal foundation of a democratic constitutional order. They protect the dignity of individuals against arbitrary power and require the State to respect liberty, equality and fairness. The Constitution of India, 1950 is not merely an instrument for the distribution of governmental powers; it establishes a rights-centred constitutional framework through fundamental rights, directive

⁹Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

principles and constitutional remedies. Articles 14, 19, 21, 22, 23, 24, 32 and 226 are especially significant because they relate to equality, liberty, protection against exploitation, procedural safeguards and enforceable judicial remedies.¹⁰ Within this framework, the judiciary performs a constitutional function by interpreting the Constitution, reviewing State action, protecting minorities and weaker sections, and translating abstract constitutional values into enforceable legal norms.

A. Conceptual Meaning of Human Rights

Human rights refer to the rights that every person requires in order to live with dignity, autonomy and equality. The Universal Declaration of Human Rights recognises that the inherent dignity and equal and inalienable rights of all members of the human family constitute the foundation of freedom, justice and peace.¹¹ Civil and political rights protect liberty, conscience, equality and participation, while social and economic rights secure the material conditions necessary for a meaningful life. In India, these dimensions interact through fundamental rights and directive principles. Courts have often used directive principles to enrich the meaning of enforceable rights, particularly under Article 21, because liberty is incomplete without fairness, livelihood, education, health and social justice.¹²

B. Constitutional Framework for Human-Rights Protection in India

The protection of human rights in India is reflected in Part III, Part IV and the remedial provisions of the Constitution. Part III guarantees enforceable rights such as equality before law, non-discrimination, freedoms under Article 19, protection of life and personal liberty under Article 21, safeguards against arbitrary arrest and protection against exploitation. Part IV directs the State to promote welfare, justice, free legal aid, humane working conditions, public health and education. Although directive principles are not directly enforceable, they guide constitutional interpretation and help courts give substantive meaning to fundamental rights. The Protection of Human Rights Act, 1993 adds an institutional dimension by establishing the National Human

¹⁰ Constitution of India, 1950, arts. 14, 19, 21, 22, 23, 24, 32 and 226.

¹¹ Universal Declaration of Human Rights, 1948, preamble.

¹² Constitution of India, 1950, Part III and Part IV.

Rights Commission and State Human Rights Commissions; nevertheless, judicial remedies remain central because courts can issue binding orders against rights violations.¹³

C. Constitutional Role of the Judiciary in a Democratic Order

In a constitutional democracy, the role of the judiciary is not confined to ordinary dispute resolution. It preserves the supremacy of the Constitution, checks arbitrary exercise of State power and safeguards fundamental rights. Judicial review enables courts to test legislative and executive action against constitutional limitations. The basic-structure doctrine, developed in *Kesavananda Bharati*, prevents Parliament from destroying the essential features of the Constitution, including judicial review, rule of law and fundamental rights.¹⁴ The judiciary also protects constitutional morality by ensuring that dignity and equality are not denied to socially unpopular or marginalised groups. This function is not a substitute for governance; rather, it is a constitutional duty to ensure that public power remains subject to law, precedent, reasoned interpretation and institutional restraint.

D. Significance of the Study

The significance of this study lies in the fact that Indian human-rights jurisprudence has been shaped substantially through judicial interpretation. In areas such as undertrial detention, custodial violence, workplace sexual harassment, livelihood, privacy, environmental protection and LGBTQ equality, courts have responded where legislative or administrative mechanisms were absent, inadequate or ineffective. At the same time, the effectiveness of judicial intervention must be critically examined because declaration of rights does not automatically ensure implementation. This dissertation therefore assesses both the strengths and limitations of the judiciary in protecting human rights. The subject is important for LL.M research because it connects constitutional doctrine, case law, remedies, institutional design and human-rights theory within a single analytical framework.

¹³ Protection of Human Rights Act, 1993, ss. 3 and 21.

¹⁴ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

V. JUDICIAL PROTECTION OF HUMAN RIGHTS IN INDIA

A. Constitutional Remedies under Articles 32 and 226

Judicial protection of human rights is anchored in Articles 32 and 226 of the Constitution. Article 32 enables individuals to approach the Supreme Court directly for the enforcement of fundamental rights, while Article 226 empowers High Courts to issue writs for the enforcement of fundamental rights and other legal rights.¹⁵ The writs of habeas corpus, mandamus, certiorari, prohibition and quo warranto allow courts to respond to illegal detention, official inaction, jurisdictional error, abuse of authority and unlawful occupation of public office. These remedies ensure that constitutional rights do not remain merely declaratory. Habeas corpus is particularly significant in cases of unlawful detention because it requires the detaining authority to justify custody before a court. Mandamus is equally important because many human-rights violations arise from official failure to perform public duties.

B. Public Interest Litigation and Access to Justice

Public interest litigation transformed constitutional adjudication by relaxing traditional rules of standing. It allowed public-spirited individuals and organisations to approach courts on behalf of persons who were poor, detained, illiterate, exploited or otherwise unable to litigate. In *Hussainara Khatoon*, the Supreme Court examined the condition of undertrial prisoners and recognised speedy trial as an essential part of Article 21.¹⁶ PIL also enabled judicial intervention in matters involving bonded labour, prison conditions, environmental degradation and child labour. Its procedural flexibility permitted courts to rely on reports, appoint commissions, issue interim directions and monitor compliance where a single final order could not remedy a continuing violation. However, courts must also prevent misuse of PIL for publicity, political advantage or private interest so that genuine human-rights claims receive priority.

¹⁵ Constitution of India, 1950, arts. 32 and 226.

¹⁶ *Hussainara Khatoon (I) v. Home Secretary, State of Bihar*, (1980) 1 SCC 81.

C. Judicial Activism and Human-Rights Protection

Judicial activism in the human-rights context refers to rights-oriented interpretation and remedial innovation by courts where constitutional guarantees require effective protection. It is legitimate when it is anchored in constitutional text, precedent and necessity. In *Vishaka*, the Supreme Court framed guidelines on workplace sexual harassment in the absence of domestic legislation and relied on Articles 14, 15, 19 and 21 together with compatible international norms. In *D.K. Basu*, the Court issued safeguards concerning arrest and detention in order to prevent custodial violence and protect life and liberty. In the post-2024 criminal-law framework, these safeguards must now be read with Sections 35–38 of the *Bharatiya Nagarik Suraksha Sanhita*, 2023, which regulate arrest without warrant, notice of appearance, duties of the arresting officer, maintenance and display of arrest information by the designated police officer, and the arrested person's right to meet an advocate during interrogation. This legislative relocation does not reduce the constitutional force of *D.K. Basu*; rather, it requires police conduct to be assessed simultaneously against Article 21 and the current BNSS framework. Such decisions demonstrate that judicial directions can operate as temporary constitutional bridges until appropriate legislative or administrative frameworks are established. At the same time, activism must remain principled and institutionally sensitive.

D. Institutional Role of the Supreme Court and High Courts

The Supreme Court and High Courts perform complementary roles in human-rights protection. Through Article 141, the Supreme Court declares binding law and provides national direction to constitutional jurisprudence.¹⁷ Its decisions on basic structure, fair procedure, privacy, dignity, custodial safeguards and public interest litigation have shaped rights discourse throughout India. High Courts, under Article 226, are especially important because they are more accessible for local grievances involving illegal detention, police inaction, service discrimination, municipal neglect, hospital administration and environmental harm. Effective human-rights protection

¹⁷ Constitution of India, 1950, art. 141.

therefore requires both levels of the judiciary to remain independent, accessible and rights-sensitive.

E. Expansion of Article 21 and the Jurisprudence of Human Dignity

Article 21 has become the central provision of Indian human-rights jurisprudence. After *Maneka Gandhi*, it was no longer sufficient for the State merely to show that some legal procedure existed; the procedure had to be fair, just and reasonable.¹⁸ The Court subsequently recognised that life includes more than physical existence. In *Olga Tellis*, livelihood was treated as an aspect of life; in *Hussainara Khatoon*, speedy trial was linked to personal liberty; in *Puttaswamy*, privacy was recognised as intrinsic to dignity and autonomy; and in *Navtej Singh Johar*, equal citizenship and intimate autonomy of LGBTQ persons were constitutionally affirmed.¹⁹ These decisions show that Article 21 has evolved from a narrow procedural guarantee into a living charter of dignified existence. The expansion is strongest when courts connect the claimed right to constitutional text, precedent, dignity and workable remedies.

VI. ANALYSIS OF JUDICIAL CONTRIBUTION TO HUMAN RIGHTS

A. Protection of Life and Personal Liberty

The judiciary's interpretation of life and personal liberty has served two major purposes. First, it has restrained coercive State action by insisting that power must be exercised through lawful, fair and reasonable procedures. Secondly, it has required the State to respect basic human interests that make liberty meaningful. Decisions on detention, eviction, surveillance and criminal process demonstrate that public authority must satisfy standards of legality, fairness and proportionality. This rights-based approach reflects the transformative character of the Constitution. Nevertheless, the expansion of Article 21 must remain principled. If every social interest is constitutionalised without careful reasoning, adjudication may become

¹⁸ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹⁹ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

uncertain. The strongest decisions are those that relate the claimed right to constitutional text, dignity, precedent and appropriate relief.

B. Rights of Prisoners and Undertrial Prisoners

Prisoners and undertrial prisoners are among the most vulnerable subjects of State power. The Court has repeatedly held that imprisonment does not extinguish fundamental rights. In *Sunil Batra*, the Supreme Court treated prisons as institutions subject to constitutional discipline. In *Sheela Barse*, the Court addressed concerns relating to women prisoners and procedural safeguards. *Hussainara Khatoon* exposed prolonged undertrial detention and recognised speedy trial as part of Article 21, while *D.K. Basu* reinforced safeguards during arrest and detention. For a 2025–26 analysis, these safeguards should be situated within the BNSS, 2023, particularly Sections 35–38, instead of being treated only through the repealed CrPC framework. These cases demonstrate that justice must be measured not only by conviction and punishment but also by dignity, fairness and accountability throughout the criminal process.

C. Rights of Women and Children

Judicial protection of women's and children's rights has developed through a vulnerability-sensitive understanding of equality and dignity. In *Vishaka*, workplace sexual harassment was treated as a violation of equality, dignity and life, and the Court's guidelines remained operative until the enactment of the 2013 statute. The judiciary has also intervened in matters relating to child labour, education, adoption and institutional protection. *M.C. Mehta v. State of Tamil Nadu* addressed child labour in hazardous industries, while *Laxmi Kant Pandey* laid down safeguards in relation to inter-country adoption. *Mohini Jain* and *Unni Krishnan* connected education with dignity and life, thereby contributing directly to later constitutional and statutory developments in the right to education.

The most significant developments were the Constitution (Eighty-sixth Amendment) Act, 2002 and the Right of Children to Free and Compulsory Education Act, 2009. The Eighty-sixth Amendment inserted Article 21A into Part III of the Constitution, making free and compulsory education for children between six and fourteen years a fundamental right. The RTE Act, 2009 gave statutory effect to Article 21A by creating

enforceable duties relating to free elementary education, neighbourhood schools, admission, non-discrimination, school standards, monitoring and grievance redressal.²⁰ These developments show how judicial recognition of education as part of life and dignity under Article 21 helped catalyse constitutional and legislative change. At the same time, the effectiveness of this right depends on adequate infrastructure, trained teachers, inclusive admission practices, prevention of child labour and meaningful enforcement at the local level. A rights-based approach therefore requires both prevention of abuse and effective remedies where preventive systems fail.

D. Rights of Workers and Marginalised Communities

The judiciary has used constitutional interpretation to address exploitation of workers and marginalised communities. In *People's Union for Democratic Rights*, payment of wages below the minimum wage in public works was treated as a form of forced labour under Article 23; in the present statutory framework, unlawful compulsory labour is also addressed under Section 146 of the *Bharatiya Nyaya Sanhita*, 2023.²¹ In *Bandhua Mukti Morcha*, the Court addressed bonded labour through investigation, rehabilitation and recognition of State responsibility.²² *Olga Tellis* recognised that eviction may destroy livelihood and must therefore satisfy fair procedure. NALSA recognised gender identity as an integral aspect of dignity and autonomy, while *Navtej Singh Johar* protected LGBTQ persons from criminalisation of adult consensual intimacy.²³ This position has been further consolidated after the repeal of the IPC because the BNS, 2023 contains no successor provision corresponding to Section 377 IPC, thereby keeping consensual adult same-sex intimacy outside the penal code's scope as an 'unnatural offence'. These decisions reflect a movement from formal equality towards substantive dignity.

²⁰ Constitution (Eighty-sixth Amendment) Act, 2002; Constitution of India, 1950, art. 21A; Right of Children to Free and Compulsory Education Act, 2009, ss. 3, 6, 8, 9, 19, 31 and 32.

²¹ *People's Union for Democratic Rights v. Union of India*, (1982) 3 SCC 235.

²² *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

²³ *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

The legislative response to NALSA is reflected in the Transgender Persons (Protection of Rights) Act, 2019, which seeks to prohibit discrimination against transgender persons and provide a statutory framework for recognition, welfare, education, employment, healthcare and institutional protection. The Act defines 'transgender person', provides for a certificate of identity through the District Magistrate, and establishes the National Council for Transgender Persons. However, the Act also illustrates the gap between judicial declaration and practical implementation. Although NALSA affirmed self-identification as an aspect of dignity, autonomy and personal liberty, the statutory certification mechanism has been criticised for making legal recognition dependent on administrative verification, thereby partially diluting the self-identification principle. This tension strengthens the argument that judicial recognition of rights must be supported by legislation that faithfully implements, rather than narrows, constitutional guarantees.

E. Environmental Rights as Human Rights

Environmental adjudication demonstrates that human rights may be collective as well as individual. Pollution and ecological degradation can harm entire communities and future generations. The judiciary has linked environmental protection with Article 21 because pollution directly affects health, livelihood and dignity. In *Subhash Kumar*, the Supreme Court associated the right to life with pollution-free water and air.²⁴ In *M.C. Mehta v. Union of India*, the Court developed stricter principles of liability for hazardous industries.²⁵ In *Vellore Citizens Welfare Forum*, the principles of sustainable development, precaution and polluter pays were recognised as part of Indian environmental law.²⁶ Environmental human rights are especially significant for marginalised and displaced communities. However, environmental orders must also be sensitive to livelihood, rehabilitation and expert regulatory capacity.

²⁴ *Subhash Kumar v. State of Bihar*, (1991) 1 SCC 598.

²⁵ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

²⁶ *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

F. Privacy, Equality and Dignity in Modern Human-Rights Jurisprudence

Contemporary human-rights violations frequently involve surveillance, data collection, identity-based exclusion and interference with intimate autonomy. In Justice K.S. Puttaswamy, the Supreme Court recognised privacy as a constitutional right grounded in dignity, autonomy, bodily integrity and informational self-determination.²⁷ In Navtej Singh Johar, the Court rejected social morality as a basis for denying constitutional rights and affirmed dignity and equality on the basis of sexual orientation.²⁸ Since the BNS, 2023 contains no equivalent of Section 377 IPC, the post-2024 statutory framework now reflects the decriminalised status of consensual adult same-sex intimacy, while leaving distinct offences involving absence of consent, minors, trafficking or exploitation to be governed by their specific provisions. These decisions mark a shift from formal equality to substantive equality by asking whether law or State action reinforces stigma, exclusion or unequal citizenship. This approach is crucial in societies where discrimination may operate through social convention as well as formal legal prohibition.

The principal legislative response to this informational-privacy dimension is the Digital Personal Data Protection Act, 2023, read with the Digital Personal Data Protection Rules, 2025, which were notified on 14 November 2025. The DPDP framework introduces Data Fiduciary obligations, consent-based processing, notice requirements, purpose limitation, security safeguards, breach notification, Data Principal rights, and institutional enforcement through the Data Protection Board of India. These features broadly reflect the Puttaswamy emphasis on legality, transparency and individual control over personal data. However, the framework must also be assessed critically against Puttaswamy's necessity and proportionality standard because broad State exemptions, legitimate-use categories and phased compliance may dilute effective informational self-determination unless supported by narrow tailoring, procedural safeguards, independent oversight and meaningful remedies.

²⁷ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

²⁸ Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

G. Strengths and Limitations of Judicial Intervention

Judicial intervention has strengthened human-rights protection by providing enforceable remedies, preserving judicial independence, controlling arbitrary State action, protecting minorities and responding to institutional failure. Public interest litigation, writ remedies and the expansion of Article 21 have humanised Indian constitutional law. However, courts are reactive institutions. They depend on executive implementation, face docket pressure and may not possess the expertise required for continuous supervision of complex policy areas. Access to courts remains unequal despite legal-aid mechanisms. Excessive judicial management may also raise concerns relating to separation of powers. The appropriate conclusion is that the judiciary has been transformative, but judicial protection must be supported by administrative accountability, legislative follow-up, legal aid, public awareness and effective compliance mechanisms.

Another limitation is the inconsistent translation of constitutional doctrine into local practice. A judgment of national importance may declare a right, but its effect depends on police stations, district authorities, prison officials, municipal bodies, employers and trial courts. Human-rights protection therefore requires institutional internalisation. Judicial decisions generate legal norms; systems of governance must convert those norms into routine administrative practice. Courts should also maintain remedial proportionality by identifying the constitutional wrong, assigning institutional responsibility, prescribing measurable duties and avoiding open-ended supervision unless absolutely necessary.

VII. FINDINGS, RECOMMENDATIONS AND CONCLUSION

A. Major Findings

The study finds that the judiciary has been a dominant institution in the protection of human rights in India. Articles 32 and 226 have converted constitutional rights into enforceable remedies. After *Maneka Gandhi*, Article 21 became the centre of dignity-based rights jurisprudence. Public interest litigation widened access to justice for undertrial prisoners, bonded labourers, workers, children, women and environmental victims. Courts have also used international norms as interpretive aids where

domestic law was absent or compatible with constitutional guarantees, as illustrated by Vishaka. Nevertheless, implementation gaps, docket pressure, unequal access to courts and the need to respect institutional boundaries continue to limit judicial protection.

B. Recommendations

First, legal aid and rights awareness must be strengthened so that poor and marginalised persons can effectively use constitutional remedies.

Secondly, police and prison reforms must ensure compliance with D.K. Basu safeguards as reflected in Sections 35–38 of the Bharatiya Nagarik Suraksha Sanhita, 2023, including lawful grounds of arrest, notice of appearance where arrest is unnecessary, preparation of an arrest memorandum, communication of arrest information to relatives or nominated persons, maintenance of arrest information by the designated police officer, and access to an advocate during interrogation. Police training should also be updated to cover the BNS, BNSS and BSA so that constitutional safeguards are applied under the current criminal-law framework.

Thirdly, implementation of judicial orders should be monitored through clear institutional responsibilities, realistic timelines and transparent reporting.

Fourthly, the 2013 workplace-harassment law should be implemented in the spirit of Vishaka through functional internal committees, training and protection against retaliation.

Fifthly, environmental adjudication should support expert regulation rather than replace it. Sixthly, privacy and dignity jurisprudence should be supported by legislation, proportionality review and accountability in data practices.

Finally, High Courts should be strengthened as primary constitutional forums for local human-rights protection through better listing systems, legal-aid support and accessible filing mechanisms.

C. Conclusion

The central lesson of Indian human-rights jurisprudence is that constitutional text acquires practical force through interpretation, remedies and institutional courage.

The judiciary has not been flawless and cannot replace democratic governance. However, its interventions have given voice to persons who are often excluded from ordinary political and legal processes. Through judicial review, writ jurisdiction, public interest litigation and purposive interpretation, the Supreme Court and High Courts have protected life, liberty, equality, dignity, livelihood, privacy, gender justice and environmental rights. At the same time, courts alone cannot secure human rights. Legislative support, administrative compliance, legal aid, rights education and social acceptance are essential. An independent and effective judiciary is necessary for human-rights protection, but a constitutional culture of dignity requires all institutions to act faithfully to the promises of justice, liberty, equality and fraternity.

VIII. BIBLIOGRAPHY

A. Constitutional and Statutory Materials

1. Constitution of India, 1950.
2. Protection of Human Rights Act, 1993, as amended.
3. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
4. Legal Services Authorities Act, 1987.

B. International Instruments

1. United Nations. Universal Declaration of Human Rights, 1948.
2. United Nations. International Covenant on Civil and Political Rights, 1966.
3. United Nations. International Covenant on Economic, Social and Cultural Rights, 1966.
4. United Nations. Convention on the Elimination of All Forms of Discrimination against Women, 1979.
5. United Nations. Convention on the Rights of the Child, 1989.

C. Cases

1. *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.
2. *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.
3. *Hussainara Khatoon (I) v. Home Secretary, State of Bihar*, (1980) 1 SCC 81.

4. Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.
5. Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.
6. Laxmi Kant Pandey v. Union of India, (1984) 2 SCC 244.
7. M.C. Mehta v. State of Tamil Nadu, (1996) 6 SCC 756.
8. M.C. Mehta v. Union of India, (1987) 1 SCC 395.
9. Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
10. Mohini Jain v. State of Karnataka, (1992) 3 SCC 666.
11. National Legal Services Authority v. Union of India, (2014) 5 SCC 438.
12. Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.
13. Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.
14. People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.
15. Sheela Barse v. State of Maharashtra, (1983) 2 SCC 96.
16. Subhash Kumar v. State of Bihar, (1991) 1 SCC 598.
17. Sunil Batra v. Delhi Administration, (1978) 4 SCC 494.
18. Unni Krishnan, J.P. v. State of Andhra Pradesh, (1993) 1 SCC 645.
19. Vellore Citizens Welfare Forum v. Union of India, (1996) 5 SCC 647.
20. Vishaka v. State of Rajasthan, (1997) 6 SCC 241.

D. Books and Institutional Sources

1. Austin, Granville. *The Indian Constitution: Cornerstone of a Nation*. Oxford University Press, 1966.
2. Baxi, Upendra. *Courage, Craft and Contention: The Indian Supreme Court in the Eighties*. N.M. Tripathi, 1985.
3. Jain, M.P. *Indian Constitutional Law*. LexisNexis, latest available edition.
4. Seervai, H.M. *Constitutional Law of India*. Universal Law Publishing, 1991.
5. Shukla, V.N. *Constitution of India*. Eastern Book Company, latest available edition.
6. National Human Rights Commission. *Annual Report 2023–2024*. NHRC, India.
7. Supreme Court of India. *Official judgments and case records*.
8. India Code. *Official text of central statutes*, Government of India.