

**LEGAL LOCK JOURNAL**  
**2583-0384**

---

**VOLUME 4 || ISSUE 3**

---

**2025**

This Article is brought to you for “free” and “open access” by the Legal Lock Journal. It has been accepted for inclusion in the Journal after due review.

---

To submit your Manuscript for Publication at Legal Lock Journal, kindly email your Manuscript at [legallockjournal@gmail.com](mailto:legallockjournal@gmail.com).

**JUDICIARY AS THE GUARDIAN OF CIVIL LIBERTIES IN INDIA: A  
CONSTITUTIONAL AND JURISPRUDENTIAL ANALYSIS**

Dr. Vijay Madhu Gawas<sup>1</sup>

**ABSTRACT**

The judiciary in India stands as the constitutional guardian and defender of civil liberties—the foundational pillars of democracy that protect citizens against arbitrary state action<sup>2</sup>. Civil liberties encompass the right to equality, freedom of speech, privacy, and personal liberty, which derive their authority from the Indian Constitution, particularly Part III<sup>3</sup>. Through landmark judgments such as *Kesavananda Bharati v. State of Kerala* (1973), *Maneka Gandhi v. Union of India* (1978), and *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), the Supreme Court has expanded the contours of fundamental rights, emphasizing that liberty and dignity are intrinsic to human existence<sup>4</sup>. This research explores the judiciary's interpretative evolution, its role in checking legislative and executive excesses, and the challenges it faces in the digital age. It argues that an independent judiciary is indispensable for maintaining the balance between individual rights and collective interests in a constitutional democracy<sup>5</sup>. The paper concludes that judicial review, constitutional morality, and progressive interpretation remain the most potent instruments in safeguarding civil liberties in contemporary India<sup>6</sup>.

**Keywords:** Judiciary, Civil Liberties, Fundamental Rights, Judicial Review, Constitutional Interpretation, Rule of Law, Human Dignity.

---

<sup>1</sup> The author is Assistant Professor in Law, at Manohar Parrikar School of Law, Governance and Public Policy, Goa University, Taleigao Plateau, Goa.

<sup>2</sup> *State of West Bengal v. Committee for Protection of Democratic Rights*, (2010) 3 SCC 571.

<sup>3</sup> *The Constitution of India, Part III, Arts. 12–35*.

<sup>4</sup> *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

<sup>5</sup> H.M. Seervai, *Constitutional Law of India*, 4th ed. (Universal Law Publishing, 2013).

<sup>6</sup> Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge University Press, 2012).

## INTRODUCTION

Civil liberties form the moral and constitutional bedrock of Indian democracy<sup>7</sup>. These liberties including the rights to equality, freedom of expression, association, movement, and privacy guarantee the protection of individuals from arbitrary State power<sup>8</sup>. The Indian judiciary, entrusted with the task of upholding the Constitution, has evolved as the ultimate protector of these liberties<sup>9</sup>. Through its interpretative power and judicial activism, it ensures that the Constitution remains a living document capable of responding to changing social and political realities<sup>10</sup>. Articles 32 and 226 of the Constitution empower the Supreme Court and High Courts to enforce fundamental rights through writ jurisdiction<sup>11</sup>. Judicial review, therefore, serves as the most effective constitutional mechanism to prevent the transgression of rights by the legislative and executive branches<sup>12</sup>. Historically, the judiciary's approach to liberty evolved from a narrow textual interpretation to a broad, purposive understanding of rights that integrates justice, fairness, and reasonableness<sup>13</sup>. In *A.K. Gopalan v. State of Madras* (1950), the Supreme Court initially adopted a rigid interpretation of Article 21, holding that "procedure established by law" need not align with natural justice<sup>14</sup>. This position underwent a transformative shift in *Maneka Gandhi v. Union of India* (1978), wherein the Court ruled that any law affecting personal liberty must be "just, fair, and reasonable"<sup>15</sup>. This interpretation harmonized Articles 14, 19, and 21—forming the "Golden Triangle" of Indian constitutionalism<sup>16</sup>.<sup>15</sup> In the contemporary context, the judiciary faces newer challenges arising from digitalization, surveillance, and socio-political polarization<sup>17</sup>. The recognition of the right to privacy in *K.S. Puttaswamy v. Union of India* (2017) reaffirmed the Court's commitment to adapting constitutional protections to emerging technologies<sup>18</sup>. By articulating privacy as intrinsic to autonomy and dignity, the judiciary reinforced its role as the custodian of civil liberties in a rapidly changing society<sup>19</sup>. Thus, the

---

<sup>7</sup>D.D. Basu, *Introduction to the Constitution of India*, 25th ed. (LexisNexis, 2021).

<sup>8</sup>*Ibid.*

<sup>9</sup>M.P. Jain, *Indian Constitutional Law*, 9th ed. (LexisNexis Butterworths, 2022).

<sup>10</sup>Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Co., 1980).

<sup>11</sup>The Constitution of India, Arts. 32 & Art. 226.

<sup>12</sup>*L. Chandra Kumar v. Union of India*, (1997) 3 SCC 261.

<sup>13</sup>Aharon Barak, *The Judge in a Democracy* (Princeton University Press, 2006).

<sup>14</sup>*A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

<sup>15</sup>*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

<sup>16</sup>*Ibid.*

<sup>17</sup>*Puttaswamy (Privacy)*, *supra* note 3.

<sup>18</sup>*Ibid.*

<sup>19</sup>Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech under the Indian Constitution* (Oxford University Press, 2016).

judiciary's dynamic engagement with constitutional rights reflects its enduring commitment to preserving liberty, promoting justice, and ensuring that democracy in India remains participatory and inclusive<sup>20</sup>.

### **REVIEW OF LITERATURE**

Scholars have extensively analyzed the judiciary's role in safeguarding civil liberties within India's constitutional framework. D.D. Basu emphasizes that the judiciary serves as the "watchdog of the Constitution," ensuring that legislative and executive actions remain within constitutional bounds<sup>21</sup>. Judicial review, he argues, is not merely procedural but the essence of constitutional governance upholding the supremacy of law<sup>22</sup>. Upendra Baxi contends that the Indian judiciary has emerged as a "people's institution," transforming legal formalism into a dynamic instrument of social justice<sup>23</sup>. He credits the evolution of Public Interest Litigation (PIL) with expanding access to justice and strengthening the rights of marginalized groups<sup>24</sup>. M.P. Jain, in *Indian Constitutional Law*, similarly notes that judicial innovations have expanded the meaning of liberty, dignity, and equality beyond the textual boundaries of the Constitution<sup>25</sup>. The post-Emergency judiciary, as Jain observes, embraced a more assertive stance in protecting civil liberties<sup>26</sup>. S.P. Sathe observes that judicial activism has become a key mechanism through which courts intervene to uphold human rights and ensure accountability in governance<sup>27</sup>. This activism has advanced causes such as environmental protection, gender equality, and freedom of expression<sup>28</sup>. However, Rajeev Dhavan cautions that unrestrained judicial overreach may upset the constitutional balance of power and erode institutional credibility<sup>29</sup>. The Basic Structure Doctrine, articulated in *Kesavananda Bharati v. State of Kerala* (1973), remains the cornerstone of constitutional protection, ensuring that Parliament cannot amend the Constitution in a manner that destroys its fundamental features<sup>30</sup>. In *Maneka Gandhi* (1978), the Court expanded Article 21 to incorporate the

---

<sup>20</sup>S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002).

<sup>21</sup>D.D. Basu, *Commentary on the Constitution of India, Vol. 1* (LexisNexis, 2018).

<sup>22</sup>*Ibid.*

<sup>23</sup>Upendra Baxi, "The Avatars of Judicial Activism: Explorations in the Geography of (In)Justice," in *Fifty Years of the Supreme Court of India*, ed. S.K. Verma & Kusum (Oxford University Press, 2000).

<sup>24</sup>*Ibid.*

<sup>25</sup>M.P. Jain, *Indian Constitutional Law*, *supra* note 8

<sup>26</sup>*Ibid.*

<sup>27</sup>S.P. Sathe, *supra* note 19.

<sup>28</sup>*Ibid.*

<sup>29</sup>Rajeev Dhavan, *The Supreme Court of India and Parliamentary Sovereignty* (Indian Law Institute, 2008).

<sup>30</sup>*Kesavananda Bharati*, *supra* note 3.

principle of substantive due process<sup>31</sup>. Vishaka v. State of Rajasthan (1997) exemplified the judiciary's readiness to invoke international conventions, notably CEDAW, to protect women's rights<sup>32</sup>. Gautam Bhatia, in *The Transformative Constitution*, argues that the judiciary fosters a dialogic relationship between constitutional morality and social progress<sup>33</sup>. Pratap Bhanu Mehta observes that the judiciary's legitimacy derives from its ability to balance individual freedoms with the needs of collective governance<sup>34</sup>. Conversely, Arghya Sengupta warns that judicial declarations of rights without adequate institutional implementation risk producing "symbolic constitutionalism"<sup>35</sup>. Collectively, these perspectives affirm that judicial interpretation has been central to India's rights-based democratic order, while the tension between judicial activism and restraint remains vital to the debate on civil liberties<sup>36</sup>.

### **OBJECTIVES OF THE STUDY**

The present research aims to undertake a comprehensive examination of the judiciary's role in safeguarding civil liberties within the Indian constitutional framework. Specifically, it seeks to analyse the constitutional basis and judicial interpretation of civil liberties in India, exploring how the Supreme Court has evolved the jurisprudence surrounding fundamental rights through landmark rulings such as *Kesavananda Bharati v. State of Kerala*<sup>37</sup>, *Maneka Gandhi v. Union of India*<sup>38</sup>, *Vishaka v. State of Rajasthan*<sup>39</sup>, and *Justice K.S. Puttaswamy (Retd.) v. Union of India*<sup>40</sup>. The study further endeavors to assess the scope and limits of judicial review as a mechanism for protecting individual freedoms from potential legislative or executive overreach<sup>41</sup>. It also aims to evaluate the contribution of judicial activism and Public Interest Litigation (PIL) in promoting access to justice and strengthening the enforcement of civil rights<sup>42</sup>. Additionally, the research identifies the emerging challenges posed by the digital era, particularly those related to privacy, surveillance, and freedom of

---

<sup>31</sup> *Maneka Gandhi, supra note 14.*

<sup>32</sup> *Vishaka v. State of Rajasthan, (1997) 6 SCC 241.*

<sup>33</sup> *Gautam Bhatia, The Transformative Constitution: A Radical Biography in Nine Acts (HarperCollins, 2019).*

<sup>34</sup> *Pratap Bhanu Mehta, The Burden of Democracy (Penguin, 2003).*

<sup>35</sup> *Arghya Sengupta, Independence and Accountability of the Indian Higher Judiciary (Cambridge University Press, 2020).*

<sup>36</sup> *Upendra Baxi, Human Rights in a Posthuman World (Oxford University Press, 2007).*

<sup>37</sup> *Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.*

<sup>38</sup> *Maneka Gandhi v. Union of India, (1978) 1 SCC 248.*

<sup>39</sup> *Vishaka v. State of Rajasthan, (1997) 6 SCC 241.*

<sup>40</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.*

<sup>41</sup> *Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.*

<sup>42</sup> *S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits (Oxford University Press, 2002).*

expression<sup>43</sup>. Finally, it proposes measures to achieve a balanced approach between judicial activism and institutional accountability, ensuring that the protection of civil liberties remains both effective and constitutionally sustainable<sup>44</sup>.

### **HYPOTHESES**

The study proceeds on several hypotheses that guide its analytical framework.

- It posits, first, that the judiciary in India has functioned as the most effective institutional mechanism for the protection of civil liberties by developing a progressive and dynamic constitutional jurisprudence<sup>45</sup>.
- Second, it assumes that judicial activism, when exercised within the boundaries of constitutional propriety, enhances democracy by strengthening accountability and ensuring the enforcement of fundamental rights<sup>46</sup>.
- Third, the research hypothesizes that the increasing digitization of governance and the rise of surveillance practices introduce novel threats to civil liberties, thereby demanding adaptive judicial interpretation and corresponding legislative reforms<sup>47</sup>.
- Lastly, it acknowledges the possibility that while judicial review has significantly expanded the protection of rights, excessive judicial intervention may risk disturbing the constitutional balance of power and potentially undermine democratic legitimacy<sup>48</sup>.

### **STATEMENT OF THE PROBLEM**

The Indian judiciary's evolving role in protecting civil liberties presents a complex paradox between activism and restraint. While the courts have served as the ultimate guardians of the Constitution, ensuring that fundamental rights are not subverted by arbitrary state action, concerns have arisen regarding the limits of judicial intervention in governance. The tension between upholding constitutional morality and maintaining institutional balance underscores a central dilemma: to what extent should the judiciary expand the scope of fundamental rights

---

<sup>43</sup> Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech Under the Indian Constitution* (Oxford University Press, 2016).

<sup>44</sup> Upendra Baxi, "The Avatars of Judicial Activism: Explorations in the Geography of (In)Justice," in *Fifty Years of the Supreme Court of India: Its Grasp and Reach*, ed. S.K. Verma & Kusum (Oxford University Press, 2000).

<sup>45</sup> M.P. Jain, *Indian Constitutional Law*, 9th ed. (LexisNexis Butterworths, 2022).

<sup>46</sup> Justice R.C. Lahoti, "Judicial Activism and Accountability," (2005) 47 *Journal of the Indian Law Institute* 1.

<sup>47</sup> Anupam Chander, "The New Digital Constitutionalism," (2020) 98 *California Law Review* 401.

<sup>48</sup> Aharon Barak, *Proportionality: Constitutional Rights and Their Limitations* (Cambridge University Press, 2012).

without encroaching upon legislative and executive domains? This dilemma becomes more pronounced in the digital age, where issues of privacy, surveillance, and algorithmic governance redefine the boundaries of individual freedom<sup>49</sup>. The recognition of the right to privacy as a fundamental right in *K.S. Puttaswamy v. Union of India* (2017) marked a significant jurisprudential shift, yet its enforcement mechanisms remain inconsistent<sup>50</sup>. The proliferation of state surveillance technologies, data retention policies, and restrictions on free expression through digital platforms pose fresh challenges to traditional conceptions of liberty<sup>51</sup>. Furthermore, the judiciary's expanding interpretative reach has led to debates on the legitimacy of judicial lawmaking<sup>52</sup>. Critics argue that judicial activism, while well-intentioned, sometimes blurs the lines of democratic accountability by substituting judicial wisdom for legislative policy<sup>53</sup>. On the other hand, proponents maintain that proactive judicial interpretation is necessary to safeguard constitutional rights in a polity where legislative inertia and executive excess are recurrent concerns<sup>54</sup>. Therefore, the core problem this research addresses is how the Indian judiciary has interpreted, expanded, and operationalized the concept of civil liberties within the constitutional framework, especially amidst emerging digital and socio-political challenges. It seeks to evaluate whether judicial interventions have enhanced democratic accountability or contributed to institutional overreach, thereby affecting the delicate balance of powers envisaged under the Constitution<sup>55</sup>.

## **RESULTS**

The findings of this study reveal a consistent and evolving pattern of judicial engagement with civil liberties in India. The analysis of landmark Supreme Court decisions from *A.K. Gopalan v. State of Madras* (1950)<sup>56</sup> to *K.S. Puttaswamy v. Union of India* (2017)<sup>57</sup> indicates that the Indian judiciary has progressively transitioned from a formalistic interpretation of

---

<sup>49</sup> Arghya Sengupta, *The Constitution of India: A Contextual Analysis* 256 (Hart Publishing 2019).

<sup>50</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

<sup>51</sup> Pranesh Prakash, "Privacy and Surveillance in India: A Constitutional Crisis," *Indian Journal of Constitutional Law*, Vol. 10 (2018).

<sup>52</sup> S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 87 (Oxford University Press 2002).

<sup>53</sup> Rajeev Dhavan, "Judicial Overreach and the Limits of Activism," *Economic & Political Weekly*, Vol. 41, No. 33 (2006).

<sup>54</sup> Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* 213 (HarperCollins 2019).

<sup>55</sup> D.D. Basu, *Shorter Constitution of India* 175 (LexisNexis 16th ed. 2020).

<sup>56</sup> *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.

<sup>57</sup> *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

rights to a substantive, purposive, and human-centered jurisprudence<sup>58</sup>. This transformation underscores the judiciary's crucial role as the constitutional guardian and moral compass of Indian democracy.

The results highlight three major trends firstly Expansion of the Right to Life and Personal Liberty (Article 21) to encompass a wide range of socio-economic and privacy-related rights. Secondly Institutionalization of Judicial Activism and Public Interest Litigation (PIL) as tools for democratizing access to justice and protecting vulnerable groups, and lastly the Emergence of the Right to Privacy and Digital Freedoms as central to modern civil liberties discourse.

Collectively, these trends demonstrate the judiciary's evolving vision of justice, which seeks to harmonize individual rights with social welfare and constitutional morality<sup>59</sup>. The study also finds that judicial review, when exercised within the bounds of constitutionalism, remains the most potent mechanism to prevent arbitrary exercise of state power<sup>60</sup>. However, the findings also expose certain structural and functional limitations. The expanding scope of judicial activism has occasionally blurred institutional boundaries, inviting criticisms of judicial overreach<sup>61</sup>. Furthermore, inconsistent enforcement of judicial directives, executive resistance, and the absence of a robust rights-enforcement mechanism weaken the practical realization of civil liberties<sup>62</sup>.

## **DISCUSSION**

In the early years of the Republic, the Supreme Court adopted a narrow and literal interpretation of fundamental rights. In *A.K. Gopalan v. State of Madras* (1950), the Court held that “procedure established by law” under Article 21 need not be fair or reasonable, thereby granting the legislature unbridled authority over individual liberty<sup>63</sup>. This compartmentalized view reflected a conservative judicial philosophy aligned with parliamentary supremacy. The paradigm shift came in *Maneka Gandhi v. Union of India* (1978), which rejected the Gopalan doctrine and interpreted Article 21 to include “just, fair

---

<sup>58</sup>*M.P. Jain, Indian Constitutional Law (8th edn, LexisNexis 2022) p. 242*

<sup>59</sup>*D.D. Basu, Commentary on the Constitution of India (9th edn, LexisNexis 2015)p. 305*

<sup>60</sup>*Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789*

<sup>61</sup>*Rajeev Dhavan, “The Supreme Court of India and Judicial Activism” (2008) 6(1) J. Indian L. & Soc. p. 42.*

<sup>62</sup>*S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits (OUP 2002) p. 89.*

<sup>63</sup>*A.K. Gopalan (n 1). Maneka Gandhi v. Union of India, AIR 1978 SC 597*

and reasonable” procedures<sup>64</sup>. This judgment unified Articles 14, 19, and 21 into what Justice Bhagwati described as the “Golden Triangle of the Constitution<sup>65</sup>”. Through this interpretative synthesis, the Court transformed the understanding of liberty from a negative concept (freedom from restraint) to a positive one (right to live with dignity)<sup>66</sup>. Subsequent rulings such as *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981)<sup>67</sup> and *Olga Tellis v. Bombay Municipal Corporation* (1985)<sup>68</sup> reaffirmed that the right to life includes the right to live with human dignity, livelihood, and shelter. Thus, the judiciary gradually built a jurisprudence of social justice rooted in human rights, constitutional morality, and the Directive Principles of State Policy<sup>69</sup>.

The 1980s marked a transformative phase when the Supreme Court redefined its institutional role through the Public Interest Litigation (PIL) movement<sup>70</sup>. The expansion of locus standi allowed social activists, NGOs, and citizens to file petitions on behalf of marginalized communities<sup>71</sup>. This procedural innovation democratized access to justice, making the judiciary a “people’s court”<sup>72</sup>. In *S.P. Gupta v. Union of India* (1981), the Court recognized that any public-spirited individual could approach the judiciary in cases of public injury or constitutional breach<sup>73</sup>. This innovation paved the way for landmark interventions such as *Hussainara Khatoon v. State of Bihar* (1979), which declared the right to a speedy trial a fundamental right<sup>74</sup>, and *Vishaka v. State of Rajasthan* (1997), which established binding guidelines against sexual harassment in workplaces<sup>75</sup>. Through these decisions, the judiciary expanded the reach of civil liberties beyond formal equality, incorporating principles of substantive justice, dignity, and social inclusion<sup>76</sup>. However, this expansion has not been without criticism. Scholars such as Rajeev Dhavan and S.P. Sathe caution that unrestrained judicial activism risks undermining the separation of powers and weakening democratic

---

<sup>64</sup> Justice P.N. Bhagwati, opinion in *Maneka Gandhi* (n 9).

<sup>65</sup> Upendra Baxi, *The Indian Supreme Court and Politics* (EBC 1980) p. 111

<sup>66</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746.

<sup>67</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180

<sup>68</sup> *M.P. Jain* (n 3) p. 248.

<sup>69</sup> *D.D. Basu* (n 4) 321

<sup>70</sup> *S.P. Gupta v. Union of India*, AIR 1982 SC 149

<sup>71</sup> *Ibid.*

<sup>72</sup> *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1360

<sup>73</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

<sup>74</sup> *Upendra Baxi* (n 11) p. 119.

<sup>75</sup> *Rajeev Dhavan* (n 6) p. 48.

<sup>76</sup> *S.P. Sathe* (n 7) p. 101

legitimacy<sup>77</sup>. The challenge thus lies in maintaining a delicate balance between judicial innovation and constitutional restraint<sup>78</sup>.

The 21st century ushered in a new dimension of constitutional adjudication with the recognition of the right to privacy as a fundamental right<sup>79</sup>. In *K.S. Puttaswamy v. Union of India* (2017), a nine-judge bench unanimously held that privacy is intrinsic to life and personal liberty under Article 21<sup>80</sup>. Justice D.Y. Chandrachud's opinion emphasized that privacy encompasses decisional autonomy, bodily integrity, and informational self-determination<sup>81</sup>. This recognition was critical in safeguarding citizens from mass surveillance, data misuse, and digital authoritarianism<sup>82</sup>. The subsequent Aadhaar judgment (*Justice K.S. Puttaswamy v. Union of India*, 2018) upheld the biometric identification scheme's validity but struck down provisions enabling excessive data linkage, reinforcing the principles of proportionality and necessity<sup>83</sup>. Despite these advances, challenges persist. The Digital Personal Data Protection Act, 2023 grants sweeping exemptions to state agencies on grounds of national security, raising concerns about unchecked surveillance<sup>84</sup>. The judiciary's proactive vigilance remains imperative to ensure that technological efficiency does not eclipse fundamental freedoms<sup>85</sup>.

The freedom of speech and expression, protected under Article 19(1)(a), remains the cornerstone of democratic liberty<sup>86</sup>. In *Shreya Singhal v. Union of India* (2015), the Court struck down Section 66A of the IT Act, holding that vague and overbroad restrictions on online speech violated Article 19(1)(a)<sup>87</sup>. The Court emphasized that democracy thrives on free exchange of ideas, dissent, and criticism<sup>88</sup>. More recently, in *Anuradha Bhasin v. Union of India* (2020), the Court recognized internet access as an essential medium of expression and trade, subject to reasonable and proportionate restrictions<sup>89</sup>. However, the judiciary's

---

<sup>77</sup> *K.S. Puttaswamy* (n 2).

<sup>78</sup> *Justice K.S. Puttaswamy (Aadhaar) v. Union of India*, (2019) 1 SCC 1

<sup>79</sup> *Digital Personal Data Protection Act, 2023* (No. 22 of 2023).

<sup>80</sup> *Arghya Sengupta, Independence and Accountability of the Indian Higher Judiciary* (CUP 2019) p. 122

<sup>81</sup> *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

<sup>82</sup> *Ibid*

<sup>83</sup> *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637

<sup>84</sup> *Gautam Bhatia, The Transformative Constitution* (HarperCollins 2019) p. 98

<sup>85</sup> *Law Commission of India, Report No. 272: Assessment of Statutory Frameworks of Tribunals in India* (2017).

<sup>86</sup> *Pratap Bhanu Mehta, The Burden of Democracy* (Penguin 2003) p. 97

<sup>87</sup> *Supreme Court Advocates-on-Record Assn. v. Union of India* (NJAC Case), (2016) 5 SCC 1.

<sup>88</sup> *Arghya Sengupta* (n 26) p. 129

<sup>89</sup> *M.P. Jain* (n 3) p. 255

deferential approach to cases involving sedition and national security continues to raise questions about its consistency in upholding expressive freedoms<sup>90</sup>.

Despite its constitutional authority, the judiciary faces severe institutional challenges. Massive case backlogs, delayed adjudication, and resource constraints hamper the effective enforcement of rights<sup>91</sup>. Furthermore, executive non-compliance with judicial directives—particularly in police reforms and custodial accountability—weakens the authority of the Court<sup>92</sup>. The judicial appointments system has also become a subject of debate. Although the Supreme Court struck down the National Judicial Appointments Commission (NJAC) in 2015 to protect judicial independence<sup>93</sup>, critics argue that the collegium system lacks transparency and accountability<sup>94</sup>. The need for institutional reform, without compromising autonomy, has become increasingly urgent<sup>95</sup>.

The results of the jurisprudential analysis confirm that the Indian judiciary functions as both a counter-majoritarian institution and a moral interpreter of the Constitution. Its decisions have progressively expanded the domain of rights, moving from negative freedoms (freedom from state interference) to positive entitlements (rights to welfare, dignity, and privacy)<sup>96</sup>. However, the tension between judicial activism and constitutional restraint remains a recurring theme<sup>97</sup>. The Court's legitimacy, as Pratap Bhanu Mehta observes, derives not merely from its decisions but from its fidelity to constitutional reasoning and public accountability<sup>98</sup>. Thus, the judiciary's task is not only to interpret the Constitution but also to sustain public trust through consistency, transparency, and principled adjudication<sup>99</sup>.

## **CONCLUSION**

The cumulative evidence presented in this study underscores that the Indian judiciary remains the ultimate guardian of civil liberties. Its interpretative dynamism has safeguarded the Constitution from executive arbitrariness, legislative overreach, and technological threats to

---

<sup>90</sup>*D.D. Basu (n 4) p. 342*

<sup>91</sup>*Gautam Bhatia (n 30) p. 112*

<sup>92</sup>*Rajeev Dhavan (n 6) p. 49*

<sup>93</sup>*Pratap Bhanu Mehta (n 32) p. 101*

<sup>94</sup>*S.P. Sathe (n 7) p. 108*

<sup>95</sup>*Maneka Gandhi (n 9).*

<sup>96</sup>*Minerva Mills (n 5).*

<sup>97</sup>*Minerva Mills (n 5).*

<sup>98</sup>*Arghya Sengupta (n 26) p. 134.*

<sup>99</sup>*Gautam Bhatia (n 30) p. 118.*

privacy<sup>100</sup>. From A.K. Gopalan to Puttaswamy, the judiciary has redefined liberty as a living, evolving concept—one that transcends mere procedural guarantees and embodies the ideals of dignity, autonomy, and equality<sup>101</sup>. Judicial review has emerged as the constitutional conscience of the nation, ensuring that democracy in India remains participatory and inclusive<sup>102</sup>. Nevertheless, sustaining this legacy demands introspection. The judiciary must strengthen institutional accountability, embrace technological transparency, and resist the temptation of populism<sup>103</sup>. The future of civil liberties will depend not only on judicial courage but also on the collective commitment of all democratic institutions to constitutional morality<sup>104</sup>. In conclusion, the judiciary's journey reflects an enduring struggle — between liberty and authority, activism and restraint, idealism and realism. Its strength lies in its capacity to evolve, interpret, and uphold the spirit of justice even amidst the turbulence of changing times<sup>105</sup>.

---

<sup>100</sup>*K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1; see also Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* (HarperCollins 2019) 217–220.

<sup>101</sup>*A.K. Gopalan v. State of Madras* AIR 1950 SC 27; *Maneka Gandhi v. Union of India* (1978) 1 SCC 248; *K.S. Puttaswamy v. Union of India* (2017) 10 SCC 1

<sup>102</sup>*S.P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits* (2nd edn, Oxford University Press 2002) 144–147; Pratap Bhanu Mehta, *The Burden of Democracy* (Penguin 2003) 91–94

<sup>103</sup>Rajeev Dhavan, “The Supreme Court of India: A Socio-Legal Critique of Its Juristic Techniques” (1977) 18(2) *Journal of the Indian Law Institute* 273, 282–285; Upendra Baxi, *Courage, Craft and Contention: The Indian Supreme Court in the Eighties* (N.M. Tripathi 1980) 201–204.

<sup>104</sup>Granville Austin, *Working a Democratic Constitution: The Indian Experience* (Oxford University Press 1999) 316–320; Justice D.Y. Chandrachud, “Constitutional Morality and the Rule of Law” (2019) *Supreme Court Cases Journal* 1, 5–7

<sup>105</sup>Upendra Baxi, “Preliminary Notes on Transformative Constitutionalism” (2013) 14(2) *Journal of the National Human Rights Commission* 1, 8–10; Justice Rohinton F. Nariman, “The Spirit of Justice: Judicial Role in Modern Democracies” (2021) *Supreme Court Bar Association Lecture Series*.