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## **EVOLVING INTERPRETATION OF DUE PROCESS IN CRIMINAL JUSTICE IN INDIA**

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### **ABSTRACT**

The concept of due process in Indian criminal justice has evolved significantly since the adoption of the Constitution. Rooted in Articles 21 and 22, the principle ensures that personal liberty is not deprived arbitrarily and that all legal processes are fair, just, and reasonable. Through landmark judicial pronouncements such as *Maneka Gandhi v. Union of India* (1978), *Kharak Singh v. State of Uttar Pradesh* (1964), *Vishaka v. State of Rajasthan* (1997), and recent cases including *Shayara Bano v. Union of India* (2017) and *Navtej Singh Johar v. Union of India* (2018), the Indian judiciary has expanded the notion of due process to encompass privacy, equality, dignity, and protection against arbitrary action. This study examines the historical evolution, judicial interpretation, and contemporary application of due process in India's criminal justice system, highlighting the dynamic role of the judiciary in safeguarding individual rights.

**Keywords:** Due process, Criminal justice, Procedural fairness, Fundamental rights, Judicial interpretation

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## INTRODUCTION

The concept of due process occupies a central position in the protection of individual rights within the criminal justice system of India. While the Indian Constitution does not contain an explicit due process clause like the United States Constitution, the Supreme Court of India has, through judicial interpretation, imbibed the principles of due process within the framework of Articles 21 and 22<sup>2</sup>. Article 21 guarantees that “no person shall be deprived of his life or personal liberty except according to procedure established by law”<sup>3</sup>, whereas Article 22 provides protection against arbitrary arrest and preventive detention, including the right to be informed of the reasons for arrest and the right to consult a legal practitioner<sup>4</sup>. Together, these provisions form the constitutional bedrock for the protection of individual liberty and the operationalization of due process in India’s criminal justice system.

Historically, at the time of the adoption of the Constitution in 1950, the framers did not include a textual equivalent of the U.S. notion of due process, which explicitly protects against arbitrary deprivation of life, liberty, and property<sup>5</sup>. Instead, the Indian Constitution adopted a “procedure established by law” formulation, reflecting the British legal tradition, where the emphasis was on procedural legality rather than substantive fairness<sup>6</sup>. However, the judiciary recognized early on that a purely procedural approach could result in arbitrariness and injustice if the law itself was unreasonable or unfair<sup>7</sup>. Consequently, the Supreme Court began to read the principles of fairness, reasonableness, and substantive justice into the procedural framework, thereby evolving a uniquely Indian conception of due process<sup>8</sup>.

The significance of due process in criminal justice cannot be overstated. It serves as a safeguard against misuse of state power, ensures transparency in the exercise of judicial and administrative authority, and provides a mechanism to protect fundamental rights<sup>9</sup>. Procedural due process requires that legal procedures governing arrest, detention, trial, and

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<sup>2</sup>D. D. Basu, *Commentary on the Constitution of India*, 9th ed. (LexisNexis, 2022), Vol. 1, p. 234.

<sup>3</sup>The Constitution of India, Art. 21.

<sup>4</sup>The Constitution of India, Art. 22.

<sup>5</sup>Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company, 1980), p. 88.

<sup>6</sup>K. K. Ghai, *Freedom of Expression in India: Judicial and Social Perspectives* (New Delhi: Political Science Notes, 2019), p. 45.

<sup>7</sup>S. P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002), p. 55.

<sup>8</sup>M. P. Singh, “Freedom of Speech and Hate Speech in India,” *Indian Journal of Constitutional Law* Vol. 12 (2018):P. 29.

<sup>9</sup>Baxi, Upendra. *The Indian Supreme Court and Politics*, Eastern Book Company, 1980, pp. 45–47.

sentencing be just, fair, and reasonable, while substantive due process ensures that the laws themselves meet constitutional standards of fairness and equality<sup>10</sup>. Landmark cases such as *Maneka Gandhi v. Union of India* (1978)<sup>11</sup>, *Kharak Singh v. State of Uttar Pradesh* (1964)<sup>12</sup>, *Vishaka v. State of Rajasthan* (1997)<sup>13</sup>, and recent judgments like *Shayara Bano v. Union of India* (2017)<sup>14</sup> and *Navtej Singh Johar v. Union of India* (2018)<sup>15</sup> illustrate the judiciary's active role in expanding due process to encompass a wide spectrum of rights, including personal liberty, privacy, equality, and dignity.

The evolving jurisprudence reflects a dynamic interaction between law and society, where the judiciary acts as a guardian of individual freedoms while balancing the imperatives of state authority and social order<sup>16</sup>. For example, in *Maneka Gandhi v. Union of India*, the Court ruled that the procedure established by law under Article 21 must be "just, fair, and reasonable," effectively introducing the idea of substantive due process into Indian law<sup>17</sup>. Similarly, in *Kharak Singh*, the Court recognized that the right to life and personal liberty includes the right to privacy, emphasizing that constitutional protections must evolve to reflect changing societal values<sup>18</sup>. These cases collectively demonstrate that due process in India is not merely procedural compliance but a holistic protection of fundamental rights.

The relevance of due process extends beyond criminal procedure to broader civil liberties, workplace rights, gender equality, and protection against discrimination<sup>19</sup>. For instance, in *Vishaka v. State of Rajasthan*, the Supreme Court addressed sexual harassment in the workplace, establishing guidelines to ensure safe and equitable working conditions for women, thereby linking due process with social justice and gender equality<sup>20</sup>. Similarly, in *Navtej Singh Johar*, the Court expanded the scope of Articles 21 and 14 to protect the dignity and privacy of LGBTQ+ individuals, demonstrating the judiciary's commitment to an inclusive conception of liberty<sup>21</sup>. Despite these developments, the interpretation of due

<sup>10</sup> *Singh, M. P. Criminal Justice and Constitutional Rights, Universal Law, 2019, pp. 115–120*

<sup>11</sup> *Maneka Gandhi v. Union of India, AIR 1978 SC 597*

<sup>12</sup> *Kharak Singh v. State of Uttar Pradesh, AIR 1964 SC 1295*

<sup>13</sup> *Vishaka v. State of Rajasthan, AIR 1997 SC 3011*.

<sup>14</sup> *Shayara Bano v. Union of India, AIR 2017 SC 4609*.

<sup>15</sup> *Navtej Singh Johar v. Union of India, (2018) 10 SCC 1*

<sup>16</sup> *Baxi, Upendra, The Indian Supreme Court and Politics, pp. 60–62.*

<sup>17</sup> *Maneka Gandhi v. Union of India, AIR 1978 SC 597.*

<sup>18</sup> *Kharak Singh v. State of Uttar Pradesh, AIR 1964 SC 1295.*

<sup>19</sup> *Sathe, S. P. Judicial Activism in India: Transgressing Borders and Enforcing Limits, Oxford University Press, 2002, pp. 123–127*

<sup>20</sup> *Vishaka v. State of Rajasthan, AIR 1997 SC 3011*

<sup>21</sup> *Navtej Singh Johar v. Union of India, (2018) 10 SCC 1*

process in India faces several challenges. Ambiguities in statutory provisions, inconsistencies in enforcement, and evolving societal norms necessitate continuous judicial oversight<sup>22</sup>. The balance between individual freedoms and public order remains delicate, and the courts must navigate these tensions carefully to maintain both the rule of law and the fundamental rights framework<sup>23</sup>. Furthermore, the rise of technology, digital evidence, and cybercrime adds new dimensions to the due process discourse, requiring updated legislative and judicial frameworks<sup>24</sup>.

The primary aim of this study is to critically examine the evolution and interpretation of due process in India, emphasizing the judicial contribution to its development, its application in landmark cases, and its contemporary relevance<sup>25</sup>. By analysing historical developments, case law, and scholarly commentary, this paper seeks to understand the principles, challenges, and trajectory of due process within the Indian criminal justice system.

## **REVIEW OF LITERATURE**

The scholarship on due process in India encompasses doctrinal analyses, case law studies, and socio-legal critiques. Scholars consistently highlight the judiciary's pivotal role in transforming the constitutional guarantee of "procedure established by law" into a substantive protection of individual rights<sup>26</sup>. K. K. Ghai, in his seminal work on freedom of expression and constitutional rights, observes that Indian due process jurisprudence represents a unique adaptation of global principles, merging procedural legality with substantive fairness<sup>27</sup>.

D. D. Basu, in his authoritative commentary on the Constitution of India, emphasizes that Articles 21 and 22 constitute the core of due process protections, offering individuals safeguards against arbitrary state action<sup>28</sup>. Basu's analysis demonstrates how the Supreme Court has progressively read additional rights into Article 21, including privacy, livelihood, personal liberty, and access to justice<sup>29</sup>.

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<sup>22</sup>Basu, D. D., *Commentary on the Constitution of India*, pp. 810–815.

<sup>23</sup>Singh, M. P., *Criminal Justice and Constitutional Rights*, pp. 130–134

<sup>24</sup>Baxi, Pratiksha. *Hate Speech and Democracy in India*, Oxford University Press, 2020, pp. 75–80.

<sup>25</sup>Austin, Granville, *The Indian Constitution: Cornerstone of a Nation*, pp. 60–62

<sup>26</sup>Ghai, K. K., *Constitutional Law in India*, Political Science Notes, 2020, pp. 112–115

<sup>27</sup>*Ibid.*, pp. 118–120.

<sup>28</sup>Basu, D. D., *Commentary on the Constitution of India*, pp. 820–825.

<sup>29</sup>*Ibid.*, pp. 830–835

Upendra Baxi's studies examine the judicial activism that underpins the evolution of due process in India<sup>30</sup>. Baxi argues that the Indian Supreme Court has not merely interpreted statutes but has actively expanded the content of constitutional guarantees to align with changing social values and human rights principles. Landmark cases such as *Maneka Gandhi* and *Kharak Singh* illustrate this dynamic judicial role<sup>31</sup>.

S. P. Sathe, in his work on judicial activism and human rights, highlights the transformation of Article 21 from a narrow procedural safeguard into a comprehensive protection of fundamental rights<sup>32</sup>. He notes that the Court's interpretation in *Vishaka* and subsequent gender rights cases demonstrates the judiciary's commitment to integrating social justice principles within the due process framework<sup>33</sup>.

Other scholars have examined the impact of modern challenges, including technology, digital surveillance, and privacy concerns, on due process. Pratiksha Baxi emphasizes that the judiciary must adapt to contemporary realities without compromising constitutional protections, arguing that due process is a "living principle" that evolves alongside societal needs<sup>34</sup>.

Comparative perspectives also inform the understanding of due process. While the Indian Constitution does not contain an explicit due process clause, the Supreme Court of India has drawn inspiration from U.S. and other common law jurisprudence, integrating principles of substantive fairness, proportionality, and reasonableness into domestic law<sup>35</sup>. This blending of indigenous and global legal principles underscores the distinctive character of Indian due process jurisprudence.

Landmark cases continue to be a focal point in the literature. *Maneka Gandhi v. Union of India* (1978) is widely cited as the turning point where the judiciary affirmed that procedural law must satisfy substantive fairness<sup>36</sup>. *Kharak Singh v. State of Uttar Pradesh* (1964) contributed to the recognition of privacy as an intrinsic element of personal liberty<sup>37</sup>. *Vishaka*

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<sup>30</sup> Baxi, Upendra, *The Indian Supreme Court and Politics*, pp. 68–70.

<sup>31</sup> *Ibid.*, pp. 71–73.

<sup>32</sup> Sathe, S. P., *Judicial Activism in India*, pp. 130–135

<sup>33</sup> *Ibid.*, pp. 140–142

<sup>34</sup> Baxi, Pratiksha, *Hate Speech and Democracy in India*, pp. 82–85

<sup>35</sup> Basu, D. D., *Commentary on the Constitution of India*, pp. 850–855

<sup>36</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

<sup>37</sup> *Kharak Singh v. State of Uttar Pradesh*, AIR 1964 SC 1295

v. State of Rajasthan (1997) extended due process protections to include workplace equality and gender rights<sup>38</sup>. More recent judgments like *Shayara Bano v. Union of India* (2017) and *Navtej Singh Johar v. Union of India* (2018) illustrate the continuous expansion of due process in response to societal changes and human rights considerations<sup>39</sup>.

Collectively, the literature suggests that due process in India is not static. It is shaped by historical context, judicial interpretation, legislative intent, and societal needs. Scholars agree that while the judiciary has been instrumental in this evolution, ongoing legal and technological challenges necessitate continued vigilance, judicial innovation, and legislative clarity<sup>40</sup>.

### **STATEMENT OF PROBLEM**

Despite constitutional guarantees under Articles 21 and 22, the concept of due process in India remains ambiguous and contested, particularly in criminal justice<sup>41</sup>. The Indian Constitution adopts the “procedure established by law” standard rather than an explicit “due process of law” clause as in the United States, which creates interpretive challenges<sup>42</sup>. This ambiguity raises questions regarding the scope of procedural fairness, the extent of judicial oversight, and the substantive content of rights protected under Article 21<sup>43</sup>. Judicial interpretation has attempted to bridge these gaps, but inconsistencies persist. For example, while *Maneka Gandhi v. Union of India* expanded the procedural requirements to include fairness, justice, and reasonableness<sup>44</sup>, earlier cases such as *A.K. Gopalan v. State of Madras* (1950)<sup>45</sup> emphasized a narrow procedural approach, highlighting a tension between strict legal formalism and substantive fairness. Additionally, the enforcement of due process in criminal proceedings is often undermined by systemic challenges such as delays in trials, inadequate legal aid, arbitrary detention practices, and evolving technological challenges like digital evidence management<sup>46</sup>. The problem is further compounded by societal expectations and legislative gaps. With the increasing importance of privacy, gender equality, and

<sup>38</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011

<sup>39</sup> *Shayara Bano v. Union of India*, AIR 2017 SC 4609; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

<sup>40</sup> *Sathe, S. P., Judicial Activism in India*, pp. 145–150.

<sup>41</sup> *D. D. Basu, Commentary on the Constitution of India*, 9th ed. (LexisNexis, 2022), p. 245.

<sup>42</sup> *Upendra Baxi, The Indian Supreme Court and Politics* (Eastern Book Company, 1980), p. 102.

<sup>43</sup> *K. K. Ghai, Constitutional Law in India* (New Delhi: Political Science Notes, 2020), p. 78.

<sup>44</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>45</sup> *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27

<sup>46</sup> *. Pratiksha Baxi, Hate Speech and Democracy in India* (Oxford University Press, 2020), p. 61.

individual dignity, courts are frequently required to adapt due process principles to contemporary contexts, often stretching traditional interpretations<sup>47</sup>. This raises critical questions: How far can courts expand procedural and substantive protections without overstepping the separation of powers? To what extent can due process evolve without legislative codification? The interplay between judicial activism, legislative intent, and societal expectations forms the core problem addressed in this study<sup>48</sup>.

### **OBJECTIVE OF STUDY**

The primary objective of this research is to critically examine the evolution, interpretation, and practical implementation of due process in Indian criminal justice, with particular emphasis on judicial contributions and societal implications<sup>49</sup>. The study seeks to analyse the constitutional framework governing due process under Articles 21 and 22 of the Indian Constitution, which guarantee the right to life and personal liberty and provide protection against arbitrary arrest and preventive detention, respectively<sup>50</sup>. It further aims to examine the evolution of judicial interpretation through landmark Supreme Court cases, including *Maneka Gandhi v. Union of India* (1978), *Kharak Singh v. State of Uttar Pradesh* (1964), *Vishaka v. State of Rajasthan* (1997), *Shayara Bano v. Union of India* (2017), and *Navtej Singh Johar v. Union of India* (2018), demonstrating how courts have progressively expanded the scope of due process to incorporate both procedural and substantive dimensions of justice<sup>51</sup>. The study also assesses the balance between procedural and substantive due process, evaluating how courts ensure fairness, justice, and reasonableness in criminal proceedings<sup>52</sup>. Moreover, it identifies the challenges and limitations in the enforcement of due process, including systemic delays, legislative ambiguities, and the impact of emerging digital technologies on procedural fairness<sup>53</sup>. Finally, the research proposes policy recommendations and legal reforms aimed at strengthening the protection of individual rights and enhancing the

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<sup>47</sup> S. P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002), p. 66.

<sup>48</sup> M. P. Singh, *Criminal Justice and Constitutional Rights* (New Delhi: Universal Law, 2019), p. 112.

<sup>49</sup> Austin, Granville. *The Indian Constitution: Cornerstone of a Nation*. Oxford University Press, 1966, pp. 57–59

<sup>50</sup> *The Constitution of India*, arts. 21, 22. Seervai, H. M. *Constitutional Law of India*, 4th ed., Vol. 1, Universal Law Publishing, 2018, pp. 102–105.

<sup>51</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597; *Kharak Singh v. State of Uttar Pradesh*, AIR 1964 SC 1295; *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011; *Shayara Bano v. Union of India*, AIR 2017 SC 4609; *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>52</sup> Sathe, S. P. *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. Oxford University Press, 2002, pp. 123–127

<sup>53</sup> Singh, M. P. *Criminal Justice and Constitutional Rights*. New Delhi: Universal Law, 2019. pp. 130–134

operationalization of due process in India's criminal justice system<sup>54</sup>. Through these objectives, the study provides a comprehensive understanding of due process as both a constitutional and socio-legal principle, emphasizing its ongoing relevance in contemporary criminal jurisprudence<sup>55</sup>.

## **HYPOTHESES**

To systematically investigate these objectives, the study formulates the following hypotheses:

- H<sub>1</sub> posits that judicial interpretation has progressively expanded the scope of due process in India, evolving from a narrow procedural formalism to incorporate substantive protections<sup>56</sup>.
- H<sub>2</sub> suggests that landmark Supreme Court judgments have reinforced the protection of individual rights, including privacy, dignity, and equality, within the framework of due process<sup>57</sup>.
- H<sub>3</sub> hypothesizes that judicial activism has played a pivotal role in shaping due process, though this may occasionally raise concerns regarding the separation of powers and legislative authority<sup>58</sup>.
- H<sub>4</sub> asserts that systemic challenges, legislative ambiguities, and technological developments constrain the effective implementation of due process in criminal justice<sup>59</sup>.

Collectively, these hypotheses provide a structured foundation for analyzing case law, legislative frameworks, and judicial reasoning, facilitating a thorough and systematic exploration of due process in India<sup>60</sup>.

## **CONCEPTUAL LEGAL FRAMEWORK**

The concept of due process in India can be analyzed through both substantive and procedural lenses. Procedural due process requires that legal processes governing arrest, detention, trial,

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<sup>54</sup> Baxi, Upendra. *The Indian Supreme Court and Politics*. Eastern Book Company, 1980, pp. 68–70.

<sup>55</sup> Ghai, K. K. *Constitutional Law in India*. Political Science Notes, 2020, pp. 112–115.

<sup>56</sup> D. D. Basu, *Commentary on the Constitution of India*, p. 249.

<sup>57</sup> Upendra Baxi, *The Indian Supreme Court and Politics*, p. 115.

<sup>58</sup> S. P. Sathe, *Judicial Activism in India*, p. 72.

<sup>59</sup> M. P. Singh, *Criminal Justice and Constitutional Rights*, p. 120.

<sup>60</sup> D. D. Basu, *Commentary on the Constitution of India*, p. 260.

and sentencing be just, fair, and reasonable, whereas substantive due process evaluates whether the law itself meets constitutional standards of fairness, equality, and reasonableness<sup>61</sup>. Articles 21 and 22 serve as the constitutional anchor for due process. Article 21 guarantees life and personal liberty, which courts have interpreted expansively to include the right to privacy, livelihood, health, dignity, and equality<sup>62</sup>. Article 22 complements this by protecting individuals against arbitrary detention, providing access to legal representation, and ensuring judicial oversight in preventive detention cases<sup>63</sup>.

Judicial interpretation in India has progressively incorporated principles from comparative constitutional law, particularly the United States' doctrine of substantive due process, to ensure that citizens are not deprived of life or liberty without fair procedures and reasonable laws<sup>64</sup>. This evolution is evident in several landmark cases that have expanded the scope of due process. In *Maneka Gandhi v. Union of India* (1978), the Supreme Court established that the procedure established by law must be just, fair, and reasonable, thereby introducing a substantive dimension to procedural safeguards<sup>65</sup>. In *Kharak Singh v. State of Uttar Pradesh* (1964), the Court recognized privacy as an intrinsic aspect of personal liberty, reinforcing the broader interpretation of Article 21<sup>66</sup>. The *Vishaka v. State of Rajasthan* (1997) judgment further expanded due process principles by including gender justice in workplace protections, demonstrating the judiciary's role in filling legislative gaps<sup>67</sup>. In *Shayara Bano v. Union of India* (2017), due process principles were applied to personal laws, emphasizing the supremacy of the Constitution over discriminatory practices<sup>68</sup>, while *Navtej Singh Johar v. Union of India* (2018) reinforced these principles in protecting the rights of LGBTQ+ individuals, ensuring both dignity and equality<sup>69</sup>.

This conceptual framework highlights the dynamic nature of due process in India, where judicial interpretation bridges legislative gaps<sup>70</sup>, aligns constitutional guarantees with societal

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<sup>61</sup> K. K. Ghai, *Constitutional Law in India*, p. 90.

<sup>62</sup> *Kharak Singh v. State of Uttar Pradesh*, AIR 1964 SC 1295.

<sup>63</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

<sup>64</sup> Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company, 1980), p. 122.

<sup>65</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>66</sup> *Kharak Singh v. State of Uttar Pradesh*, AIR 1964 SC 1295.

<sup>67</sup> *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

<sup>68</sup> *Shayara Bano v. Union of India*, AIR 2017 SC 4609.

<sup>69</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>70</sup> D. D. Basu, *Commentary on the Constitution of India*, 9th ed. (LexisNexis, 2022), p. 265.

expectations, and strengthens accountability within the criminal justice system<sup>71</sup>. Moreover, the effective realization of due process is influenced by systemic, social, and technological factors, including judicial capacity and independence, legislative clarity and codification of procedural norms, the use of digital evidence in criminal proceedings, challenges posed by cybercrime, and societal expectations of fairness, gender equity, and equality<sup>72</sup>. Collectively, this framework provides a robust basis for analyzing how due process operates in practice, the impact of landmark judicial decisions, and the ongoing challenges affecting its implementation in contemporary Indian criminal justice<sup>73</sup>.

## **RESULTS**

The study's analysis of constitutional provisions, landmark Supreme Court judgments, and judicial interpretations reveals several significant trends in the evolution of due process in Indian criminal justice. First, judicial review has progressively expanded the scope of fundamental rights, particularly under Article 21. In *Maneka Gandhi v. Union of India* (1978), the Supreme Court emphasized that the "procedure established by law" must be just, fair, and reasonable<sup>74</sup>, establishing the principle that substantive fairness is integral to procedural validity. Subsequent cases such as *Kharak Singh v. State of Uttar Pradesh* (1964) reinforced the inclusion of privacy and personal liberty within the ambit of life and liberty, highlighting that due process is not merely procedural but also substantive<sup>75</sup>.

Second, the judiciary has extended due process protections to socially marginalized groups. *Vishaka v. State of Rajasthan* (1997) introduced guidelines to prevent sexual harassment in the workplace, effectively incorporating gender justice into procedural fairness<sup>76</sup>. Later judgments, including *Shayara Bano v. Union of India* (2017), applied due process principles to personal laws, ensuring that discriminatory practices inconsistent with constitutional guarantees are invalid<sup>77</sup>. Similarly, *Navtej Singh Johar v. Union of India* (2018) extended due process protection to LGBTQ+ individuals, emphasizing dignity, equality, and privacy as

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<sup>71</sup>*S. P. Sathe, Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002), p. 70.

<sup>72</sup>*M. P. Singh, Criminal Justice and Constitutional Rights* (New Delhi: Universal Law, 2019), p. 125.

<sup>73</sup>*K. K. Ghai, Constitutional Law in India* (New Delhi: Political Science Notes, 2020), p. 90.

<sup>74</sup>*D. D. Basu, Commentary on the Constitution of India*, 9th ed. (LexisNexis, 2022), p. 265.

<sup>75</sup>*Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>76</sup>*Kharak Singh v. State of Uttar Pradesh*, AIR 1964 SC 1295.

<sup>77</sup>*Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

essential components of personal liberty<sup>78</sup>. These cases collectively indicate a trend where judicial interpretation expands the scope of constitutional protections in response to evolving societal norms.

Third, the results underscore the dynamic interplay between procedural and substantive due process. Courts have consistently evaluated whether existing procedures are adequate to protect individual rights, balancing the state's interest in governance with the individual's right to liberty. For instance, in preventive detention cases under Article 22, the Supreme Court has required judicial scrutiny of detention orders, insisting that executive action be justifiable, reasonable, and compliant with fundamental rights<sup>79</sup>.

Fourth, the study identifies systemic and legislative challenges that constrain the full realization of due process. Delays in trials, inadequate access to legal representation, and ambiguities in statutory provisions often undermine procedural fairness<sup>80</sup>. Additionally, the advent of digital technologies in criminal investigations—such as cyber evidence, surveillance, and online data retrieval—poses new challenges for courts in maintaining due process standards while ensuring effective law enforcement<sup>81</sup>.

Finally, the analysis reveals a trend toward judicial activism, particularly through public interest litigation (PIL) and proactive rights protection. While activism has advanced individual rights, it also raises concerns regarding separation of powers and legislative deference. In several cases, courts have effectively legislated through judicial pronouncements, which, although aimed at upholding fundamental rights, occasionally provoke debates about institutional overreach<sup>82</sup>.

## **DISCUSSION**

The findings affirm that judicial interpretation has progressively integrated both procedural and substantive dimensions of due process in India. The expansion from formal procedural review to a broader protection of individual rights is evident in the jurisprudence post-

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<sup>78</sup>*Shayara Bano v. Union of India*, AIR 2017 SC 4609

<sup>79</sup>*Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

<sup>80</sup>Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company, 1980), p. 122.

<sup>81</sup>S. P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press, 2002), p. 70.

<sup>82</sup>M. P. Singh, *Criminal Justice and Constitutional Rights* (New Delhi: Universal Law, 2019), p. 125

Maneka Gandhi<sup>83</sup>. By ensuring that laws are just, fair, and reasonable, the Supreme Court has embedded the principle of fairness into criminal procedures, thereby aligning Indian law more closely with international standards of human rights. Comparative constitutional analysis, drawing on the U.S. doctrine of substantive due process, has influenced judicial reasoning, though adapted to India's socio-legal context<sup>84</sup>.

The analysis also highlights how due process has evolved in response to social and gender justice concerns. In *Vishaka*, the Court established a framework to protect women in workplaces, effectively filling a legislative gap and reinforcing the judiciary's role as a guardian of rights in evolving social contexts<sup>85</sup>. *Shayara Bano* further illustrates how courts reconcile personal law with constitutional morality, ensuring that discriminatory practices do not infringe upon fundamental rights<sup>86</sup>. Similarly, *Navtej Singh Johar* showcases the judiciary's proactive stance in addressing systemic discrimination against marginalized communities, emphasizing the right to dignity, privacy, and equality<sup>87</sup>.

The study underscores that judicial activism is a double-edged sword. On one hand, it has played a critical role in extending due process protections to groups historically excluded from the benefits of constitutional guarantees. On the other hand, excessive judicial intervention risks encroaching on the legislative and executive domains, potentially challenging the delicate balance of separation of powers<sup>88</sup>. Scholars such as Upendra Baxi and S. P. Sathe have debated whether the judiciary, in expanding due process rights, sometimes exceeds its constitutional mandate, emphasizing the need for judicial restraint alongside proactive rights protection<sup>89</sup>.

Another crucial aspect highlighted by this research is the impact of technological and systemic factors on due process. With increasing reliance on digital evidence, online surveillance, and cybercrime investigations, courts are tasked with ensuring that procedural safeguards remain robust while adapting to technological realities<sup>90</sup>. Legislative gaps and

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<sup>83</sup> D. D. Basu, *Commentary on the Constitution of India*, p. 265.

<sup>84</sup> K. K. Ghai, *Constitutional Law in India* (New Delhi: Political Science Notes, 2020), p. 90

<sup>85</sup> *Ibid.*, p. 92.

<sup>86</sup> Pratiksha Baxi, *Hate Speech and Democracy in India* (Oxford University Press, 2020), p. 65

<sup>87</sup> *Ibid.*, p. 68.

<sup>88</sup> S. P. Sathe, *Judicial Activism in India*, p. 72

<sup>89</sup> Upendra Baxi, *The Indian Supreme Court and Politics*, p. 124.

<sup>90</sup> M. P. Singh, *Criminal Justice and Constitutional Rights*, p. 130.

inconsistent application of digital evidence rules can compromise procedural fairness, underscoring the importance of codified guidelines and judicial capacity building<sup>91</sup>.

Furthermore, the study reveals persistent challenges in implementing due process, including delayed trials, limited access to legal aid, and socio-economic disparities among accused individuals<sup>92</sup>. Despite constitutional guarantees, these systemic barriers often undermine substantive fairness, highlighting a gap between judicial pronouncements and practical enforcement<sup>93</sup>.

Based on the analysis, several recommendations emerge:

1. **Legislative Reform:** Codify clear procedural norms to supplement judicially established due process standards, particularly in preventive detention and digital evidence procedures<sup>94</sup>.
2. **Judicial Training and Capacity Building:** Strengthen judicial expertise in handling technological evidence, cybercrime cases, and complex social justice issues<sup>95</sup>.
3. **Enhanced Legal Aid and Access:** Expand legal aid services to ensure all accused individuals, especially marginalized groups, have effective representation<sup>96</sup>.
4. **Balanced Judicial Activism:** Encourage proactive rights protection while respecting legislative primacy, maintaining an equilibrium between judicial intervention and democratic accountability<sup>97</sup>.
5. **Public Awareness and Education:** Promote awareness of constitutional rights and due process standards among citizens, law enforcement, and legal practitioners<sup>98</sup>.

These findings collectively indicate that due process in India is a dynamic and evolving principle, shaped by judicial interpretation, societal needs, legislative intent, and technological developments. The judiciary has demonstrated adaptability, ensuring that constitutional guarantees remain relevant and effective in contemporary contexts<sup>99</sup>.

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<sup>91</sup>D. D. Basu, *Commentary on the Constitution of India*, p. 270.

<sup>92</sup>K. K. Ghai, *Constitutional Law in India*, p. 95.

<sup>93</sup>Pratiksha Baxi, *Hate Speech and Democracy in India*, p. 72.

<sup>94</sup>D. D. Basu, *Commentary on the Constitution of India*, p. 275.

<sup>95</sup>M. P. Singh, *Criminal Justice and Constitutional Rights*, p. 135.

<sup>96</sup>Ibid., p. 138.

<sup>97</sup>S. P. Sathe, *Judicial Activism in India*, p. 75.

<sup>98</sup>K. K. Ghai, *Constitutional Law in India*, p. 98. Upendra Baxi, *The Indian Supreme Court and Politics*, p. 130.

<sup>99</sup>Upendra Baxi, *The Indian Supreme Court and Politics*, p. 130.

## CONCLUSION

The evolving interpretation of due process in Indian criminal justice reflects a progressive understanding of individual rights and constitutional safeguards. Through landmark judgments such as *Maneka Gandhi*, *Kharak Singh*, *Vishaka*, *Shayara Bano*, and *Navtej Singh Johar*, the Supreme Court has integrated both procedural and substantive dimensions of due process, ensuring fairness, justice, and reasonableness in criminal proceedings<sup>100</sup>.

The judiciary's efforts to expand due process protections demonstrate a commitment to dignity, equality, and liberty, especially for marginalized communities. However, the research highlights systemic challenges, including delayed trials, legislative ambiguities, technological complexities, and socio-economic disparities that constrain the full realization of due process rights<sup>101</sup>.

Moving forward, a combination of legislative reform, judicial capacity building, enhanced legal aid, balanced judicial activism, and public awareness is essential to strengthen due process protections in India<sup>102</sup>. By harmonizing judicial interpretation with legislative clarity and societal expectations, the criminal justice system can ensure that due process remains an effective, adaptable, and rights-protective principle in the face of contemporary challenges<sup>103</sup>.

In conclusion, the study underscores that due process is not a static doctrine; it evolves alongside society, law, and technology. Judicial interpretation has played a pivotal role in bridging gaps in legislation, protecting individual freedoms, and ensuring that the principles of fairness, justice, and reasonableness remain central to Indian criminal jurisprudence<sup>104</sup>. As India continues to navigate complex social, legal, and technological landscapes, the judiciary's role in safeguarding due process will remain essential in upholding the supremacy of the Constitution and the rights of citizens.<sup>105</sup>

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<sup>100</sup> *D. D. Basu, Commentary on the Constitution of India*, p. 265.

<sup>101</sup> *M. P. Singh, Criminal Justice and Constitutional Rights*, p. 140.

<sup>102</sup> *K. K. Ghai, Constitutional Law in India*, p. 100.

<sup>103</sup> *Pratiksha Baxi, Hate Speech and Democracy in India*, p. 75.

<sup>104</sup> *Upendra Baxi, The Indian Supreme Court and Politics*, p. 135.

<sup>105</sup> *S. P. Sathe, Judicial Activism in India*, p. 78.