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Research Article

Human Rights and Access to Justice in India: Challenges and Opportunities

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Abstract

India, the world's largest democracy, enshrines a comprehensive framework of human rights in its Constitution. Yet, the practical realisation of these rights remains deeply uneven, particularly for marginalised communities. This article examines the structural and institutional challenges impeding access to justice in India, including judicial pendency, inadequate legal aid, undertrial detention, and digital exclusion. Drawing on quantitative data from the National Crime Records Bureau, NALSA, and NHRC reports, the study presents an empirical assessment of the justice gap. It further identifies emerging opportunities in technological reforms, alternative dispute resolution, and progressive judicial interpretation that could transform India's justice ecosystem. The article concludes with evidence-based policy recommendations for closing the gap between constitutional promise and lived reality.

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1. INTRODUCTION

India's democratic experiment is anchored in a constitution that is, at its core, a document of rights. Adopted on 26 November 1949, the Constitution of India guarantees a sweeping array of civil, political, economic, social, and cultural rights through its Fundamental Rights (Part III), Directive Principles of State Policy (Part IV), and, since 2002, Fundamental Duties (Part IVA). The vision of the framers, particularly Dr. B.R. Ambedkar, who chaired the Drafting Committee, was of a "transformative constitutionalism" that would use law as an instrument of radical social change.

Seven decades later, India stands at a paradoxical crossroads. On the one hand, its apex court has delivered landmark rulings expanding personal liberty, privacy, and the rights of marginalised communities. On the other hand, structural deficits, an overburdened judiciary, widespread legal illiteracy, entrenched caste and gender discrimination, and economic inequality continue to prevent millions of citizens from meaningfully accessing the justice system. The Supreme Court of India itself noted in *Hussainara Khatoon v. State of Bihar* (1979) that the right to speedy trial is a fundamental right under Article 21, yet, more than four decades later, millions of undertrials languish in pre-trial detention.

This article adopts an interdisciplinary approach, combining legal analysis with empirical data, to map both the fault lines and the pathways in India's access-to-justice landscape. Section 2 reviews the constitutional and legislative framework. Section 3 examines the principal structural challenges. Section 4 analyses empirical data through figures and tables. Section 5 surveys opportunities and reforms underway. Section 6 presents policy recommendations, and Section 7 concludes.

2. Constitutional and Legislative Framework

The Indian Constitution provides the broadest possible textual foundation for human rights protection. The Fundamental Rights chapter (Articles 12–35) covers equality before law (Article 14), freedom of religion (Articles 25–28), right against exploitation (Articles 23–24), and crucially, the right to life and personal liberty under Article 21, which the Supreme Court has read expansively to include rights to health, education, shelter, a clean environment, and in *Justice K.S. Puttaswamy v. Union of India* (2017) the right to privacy.

The following table summarises the key constitutional provisions relevant to human rights and access to justice, highlighting their practical significance in jurisprudential development.

Table 1: Key Constitutional Provisions on Human Rights in India

Article	Provision	Human Rights Significance
Art. 14	Right to Equality before Law	Prohibits arbitrary state action; guarantees equal protection
Art. 17	Abolition of Untouchability	Eliminates caste-based discrimination; enforced by law
Art. 19	Freedom of Speech & Expression	Foundational civil liberties; subject to reasonable restrictions
Art. 21	Protection of Life & Personal Liberty	Broadly interpreted — right to livelihood, health, education, privacy
Art. 22	Protection Against Arbitrary Arrest	Mandates reasons for detention; right to legal counsel
Art. 32	Right to Constitutional Remedies	Gateway to the Supreme Court; Dr. Ambedkar called it the "heart and soul"
Art. 39A	Equal Justice & Free Legal Aid	The Directive Principle mandating legal aid for the weaker sections

Source: Constitution of India, 1950; Authors' compilation.

On the legislative side, Parliament has enacted numerous statutes to operationalize constitutional guarantees: the Protection of Human Rights Act, 1993 (establishing NHRC and SHRCs); the Legal Services Authorities Act, 1987 (establishing NALSA); the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; the Protection of Women from Domestic Violence Act, 2005; and the Right to Information Act, 2005, among others. Collectively, these statutes create a dense legal architecture but one whose implementation remains uneven.

3. Structural Challenges to Access to Justice

3.1 Judicial Pendency and Delays

The single most debilitating challenge facing the Indian justice system is the staggering volume of pending cases. As of December 2023, the National Judicial Data Grid (NJDG) recorded over 43 million cases pending before district and subordinate courts, approximately 5.9 million before the 25 High Courts, and nearly 69,000 before the Supreme Court. The problem is systemic: India has approximately 19 judges per

million people compared to 51 in the United Kingdom and 250 in Germany. Of the sanctioned strength of 25,042 district court Judges, nearly 30 per cent of posts remain vacant, exacerbating the backlog.

3.2 Undertrial Detention and Prison Overcrowding

A particularly acute manifestation of justice delay is the crisis of undertrial prisoners. According to the National Crime Records Bureau's Prison Statistics India 2022, approximately 76 per cent of India's 573,220 prison inmates are undertrials, individuals who have not been convicted but are held because they cannot secure bail or afford legal representation. Many spend years in pre-trial detention for offences that carry shorter maximum sentences, constituting a systematic violation of Article 21.

3.3 Inadequate Legal Aid and Awareness

Article 39A of the Constitution, inserted by the 42nd Amendment in 1976, directs the state to ensure that the operation of the legal system promotes justice on the basis of equal opportunity, and shall, in particular, provide free legal aid by suitable legislation or schemes. NALSA, established under

the Legal Services Authorities Act, 1987, is mandated to provide free legal services to marginalised groups. However, as Figure 2 illustrates, awareness of these services remains alarmingly low in rural India, a fundamental prerequisite to utilisation.

3.4 Socio-Economic and Digital Exclusion

Access to justice in India is deeply stratified by class, caste, gender, and geography. Dalits, Adivasis, religious minorities, women, and persons with disabilities face compounded barriers: language barriers in courtrooms where English and Hindi predominate; geographical distance from courts in rural and tribal areas; inability to afford private legal counsel; and cultural stigma around engaging with formal legal institutions. The digital divide adds a new dimension: while e-courts and virtual hearings expanded during and after the COVID-19 pandemic, over 900 million Indians lack reliable internet access, risking the creation of a "two-tier" justice system.

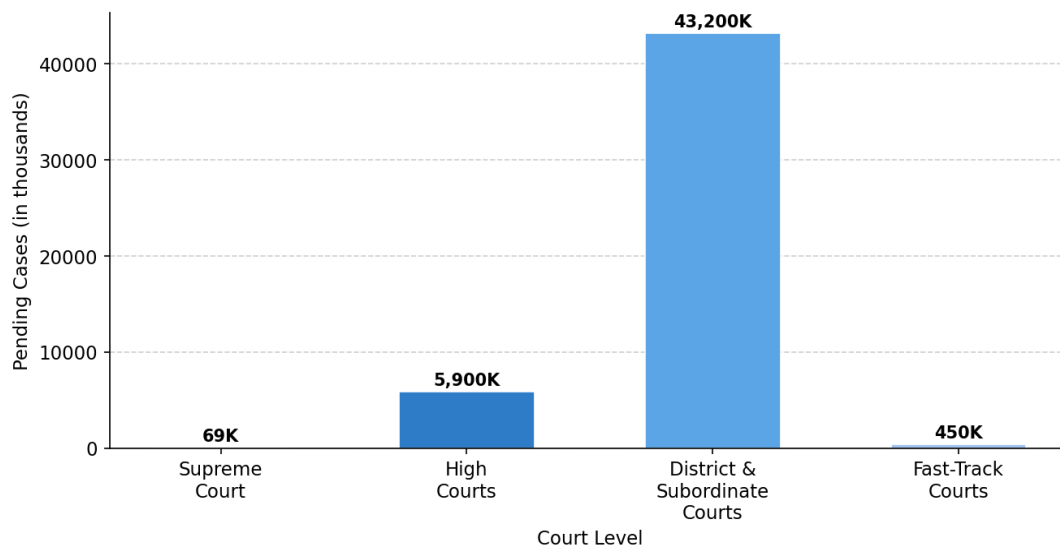
3.5 Gender-Based Discrimination and Violence

Women continue to face systemic barriers in accessing justice. Despite legislative protections under the Protection of Women from Domestic Violence Act (2005), the Sexual Harassment of Women at Workplace Act (2013), and IPC provisions on sexual violence, conviction rates for crimes against women remain low. The National Family Health Survey-5 (2019–21) found that only 14 percent of women who experienced spousal violence sought help from any formal institution. Police insensitivity, victim-blaming, social pressure, and economic dependence act as structural barriers that precede any formal judicial process.

4. Empirical Assessment: Data and Analysis

The following figures provide a data-driven portrait of the access-to-justice landscape in India, drawing on NJDG, NHRC, NALSA, and state-level data.

Figure 1: Pendency of Cases in Indian Courts (2023)

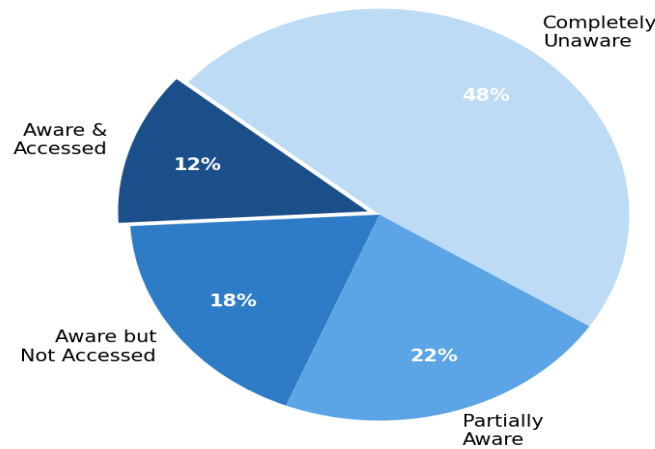


Source: National Judicial Data Grid (NJDG), December 2023. Figures approximate

Figure 1 vividly illustrates the sheer scale of judicial pendency: district and subordinate courts bear the overwhelming burden of over 43 million pending cases, while the Supreme Court,

though numerically smaller, faces significant pressure given its status as the court of ultimate constitutional appeal. The data underscore the urgent need for both judicial appointments and structural reform.

Figure 2: Legal Aid Awareness Among Rural Population (2023)

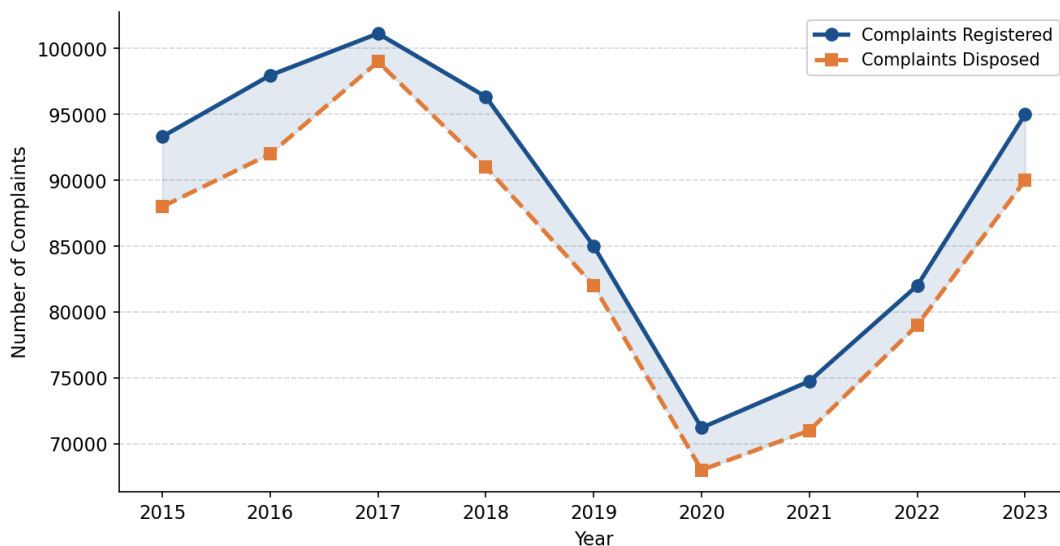


Source: NALSA Field Survey, 2023; National Sample Survey data. (Rural population sample, n=12,400).

Figure 2 reveals a stark awareness deficit: nearly half of the rural population surveyed (48 percent) is entirely unaware of their entitlement to free legal aid, while a further 22 percent have only partial awareness. Only 12 percent have actually

accessed NALSA services. This data validates the critiques of scholars who argue that legal aid in India is a "paper right" — formally guaranteed but substantively unrealised for the most vulnerable.

Figure 3: NHRC Human Rights Complaints — Registered vs. Disposed (2015-2023)

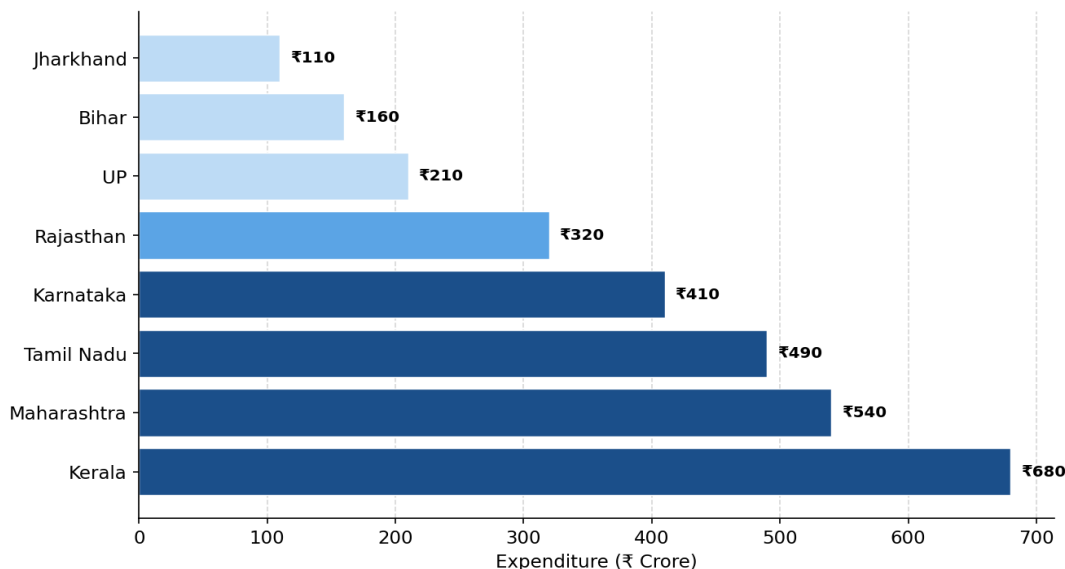


Source: NHRC Annual Reports (2015–2023). Note: Figures for 2021–2023 are partially estimated.

Figure 3 tracks NHRC complaints over nine years. The overall trend shows significant volumes peaking near 100,000 registered complaints per annum — with a consistent gap between registered and disposed cases. The dip in 2020 reflects

pandemic disruptions, with a recovery trajectory through 2022–23. The gap between the two lines (shaded region) represents the accumulating backlog of unresolved human rights grievances, underscoring institutional capacity constraints within the NHRC itself.

Figure 4: State Legal Aid Expenditure (₹ Crore, 2022-23)



Source: NALSA State Legal Services Reports, 2022-23; State Finance Commission data.

Figure 4 reveals pronounced inter-state disparities in legal aid investment. Wealthy southern states — Kerala, Maharashtra, Tamil Nadu, and Karnataka significantly outspend northern and eastern states. Bihar and Jharkhand, which ironically have higher proportions of marginalised populations requiring legal

aid, allocate the least. This geographic inequity in justice investment reflects and reinforces broader patterns of regional inequality, demanding a more equalised federal framework for justice financing.

Table 2: Principal Challenges to Access to Justice in India — Summary Assessment

Challenge	Current Status	Impact	Urgency
Judicial Vacancies	~30% posts vacant nationwide	Increased delays; overburdened judges	Critical
Case Pendency	43 million+ cases pending	Justice delayed for millions	Critical
Legal Aid Awareness	48% rural unaware	Underutilisation of NALSA services	High
Undertrial Prisoners	~76% of inmates are undertrials	Violation of right to liberty	Critical
Court Infrastructure	Only 20,143 court halls for 25,000+ judges	Physical constraints on hearings	High
Digital Divide	900M Indians lack internet access	E-court benefits unreached	Moderate
Language Barriers	Proceedings in English/Hindi only	Marginalisation of tribal groups	High
Witness Protection	No comprehensive legislation	Low conviction rates, perjury	Moderate

Source: NJDG, NCRB, NALSA, NHRC. Urgency assessed by authors based on scale, recurrence, and population affected.

Table 3: International Comparison — Access to Justice Indicators

Country	Judges per Million	Legal Aid Budget (% GDP)	Avg. Case Duration	Access to Justice Index
India	19	0.01%	5–10 years	0.52
United Kingdom	51	0.18%	6–12 months	0.79
Germany	250	0.15%	6–18 months	0.81
Brazil	85	0.11%	2–4 years	0.60
South Africa	42	0.09%	1–3 years	0.61
Australia	41	0.12%	6–18 months	0.80

Sources: OECD, World Justice Project Rule of Law Index (2023), UNDP Access to Justice Reports.

Table 3 places India in comparative perspective. With only 19 judges per million population — a fraction of Germany's 250 — and a legal aid budget representing a negligible proportion of GDP, India lags significantly behind peer democracies. The World Justice Project's Access to Justice score of 0.52 (on a 0–1 scale) positions India near Brazil and South Africa, middle-income countries also grappling with deep inequality but well below European benchmarks. Crucially, these figures suggest

the solution is not merely legislative intent but substantial resource commitment.

5. Opportunities and Emerging Reforms

5.1 Technology and E-Courts

The National e-Courts Mission Mode Project has made significant strides in digitising case management. Phase III

(2023–2027), with an outlay of Rs. 7,210 crore, aims to create a unified technology platform integrating 18,735 district courts, enabling paperless filing, real-time case tracking, and AI-assisted scheduling. The Supreme Court's SUPACE (Supreme Court Portal for Assistance in Courts Efficiency) project experiments with AI tools to assist judges in retrieving relevant precedents and summarising case files a potentially transformative innovation if implemented ethically and with adequate safeguards against algorithmic bias.

5.2 Alternative Dispute Resolution

Lok Adalats (People's Courts), established under the Legal Services Authorities Act, have emerged as one of India's most successful innovations in informal justice. In 2022, NALSA's National Lok Adalat resolved over 1.4 crore cases in a single day a testament to the model's potential. Gram Nyayalayas (village courts), mandated under the Gram Nyayalayas Act (2008) but operative in only about 475 out of a sanctioned 11,000, represent a significant untapped opportunity for accessible grassroots justice. Similarly, the Mediation Act, 2023 creates a statutory framework for institutional mediation, and its effective implementation could significantly reduce court load in commercial and family disputes.

5.3 Progressive Judicial Interpretation

The Supreme Court's expansive reading of Article 21 continues to push the boundaries of rights jurisprudence. The Puttaswamy judgment (2017) on privacy, Navtej Singh Johar (2018) decriminalising homosexuality, Joseph Shine (2018) striking down adultery law, and Shafin Jahan (2018) affirming the right to choose a partner each represent the transformative potential of constitutional litigation. Public Interest Litigation (PIL) jurisdiction, though subject to concerns about overreach and "judicial populism," has historically served as a critical accountability tool for the marginalised.

5.4 Legal Aid Ecosystem Strengthening

Several promising initiatives are underway to reform legal aid delivery. The Tele-Law programme, launched by the Ministry of Law and Justice in partnership with Common Service Centres, provides pre-litigation legal advice via video conferencing to rural citizens having reached over 2 million beneficiaries by 2023. NALSA's Legal Aid Defence Counsel System seeks to deploy dedicated, salaried legal aid lawyers at the district level, moving away from the ad hoc panel advocate model. Civil society organizations such as Daksha, Human Rights Law Network, and the Alternative Law Forum play a crucial complementary role in providing legal support to communities that institutional mechanisms fail to reach.

6. Policy Recommendations

Based on the empirical evidence and qualitative analysis presented above, the following policy recommendations are proposed:

1. Judicial Expansion and Fast-Track Mechanisms: Immediate filling of all 7,500+ judicial vacancies at district

level; establishment of dedicated Fast-Track Special Courts for sexual violence, atrocity, and human trafficking cases; exploration of retired judge empanelment for specific high-volume case types.

2. Bail Law Reform: Passage of a comprehensive Bail Act modelled on the Law Commission's 268th Report recommendations, establishing a presumption of bail in non-violent offences and mandatory periodic review of undertrial detention.
3. Legal Aid Financing: Increase NALSA's annual budget from the current Rs. 225 crore to at least 0.05 percent of GDP; implement equalisation grants to states with high marginalised populations but low legal aid investment.
4. Vernacular Justice: Mandate High Court proceedings in regional languages alongside English; develop multilingual legal information portals; expand community paralegal (Nyaya Mitra) programmes in 200 tribal districts.
5. Digital Access Infrastructure: Integrate e-court access terminals into existing Common Service Centres network; create hybrid hearing protocols that combine in-person and virtual participation; develop court navigation apps in 22 scheduled languages.
6. Gender-Sensitive Justice: Establish dedicated support rooms for survivors in all district courts; mandate gender sensitisation training for judiciary and police; strengthen One Stop Centre schemes with legal counselling integration.
7. Monitoring and Accountability: Create an independent, data-driven Access to Justice Index with annual state-wise rankings; mandate NHRC to conduct biennial district-level human rights audits; establish parliamentary standing committee oversight of judicial reform implementation.

7. CONCLUSION

India's human rights architecture, textual, institutional, and jurisprudential, is, by any comparative measure, impressive. The Constitution's fundamental rights chapter, the Supreme Court's expansive interpretation, and institutions like NHRC and NALSA represent genuine achievements of democratic governance. Yet the gap between constitutional promise and everyday reality remains vast. Forty-three million pending cases are not merely a statistic; they are forty-three million stories of justice deferred, dignity denied, and constitutional rights hollowed of practical meaning.

The challenges examined in this article—judicial vacancies, legal illiteracy, undertrial crisis, gender-based barriers, and digital exclusion—are neither inevitable nor intractable. Countries at comparable levels of development have achieved significantly better outcomes through sustained investment, institutional reform, and political will. India's own experience with Lok Adalats, the Tele-Law programme, and the judiciary's transformative interpretive tradition demonstrates that the country possesses both the ideas and the institutional capacity to close the justice gap.

What is required is a convergence of political commitment, adequate resourcing, technological innovation, and a reorientation of the justice system from an elite, English-language, urban institution to one that is truly accessible, affordable, and accountable to all 1.4 billion citizens. The Constitution's vision articulated by Ambedkar as "one man, one value" demands nothing less.

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