
BEYOND THE BLACK LETTER: A METHODOLOGICAL CRITIQUE OF THE INDIAN JUDICIARY'S EVOLUTION FROM LITERALISM TO PURPOSIVE INTERPRETATION

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ABSTRACT

The way Indian courts interpret laws has changed a lot over time, showing a bigger shift in how they relate to written laws and their own reasoning. Since the Supreme Court was set up, Indian courts have been balancing between sticking closely to the text of the law and trying to understand its purpose. They started with a very literal approach, which they got from British common law and decisions from the Privy Council, but have gradually moved towards a more flexible way of interpreting laws that considers the context. The Emergency period was a turning point, forcing the judiciary to rethink its role and how much it should respect what the legislature intends. Nowadays, Indian courts often refer to constitutional values, social goals, and sometimes even international legal standards when interpreting laws. This change shows that the legal system is growing and adapting to social realities, but it also brings up important questions about how far judges should go and whether they might be stepping into the legislature's territory. This paper looks at the basic principles of legal method in India, follows the history of how interpretation has developed from colonial times to dealing with constitutional issues, and critically assesses what the judiciary's growing role in interpretation means for the separation of powers

Keywords: Judicial Interpretation, Literalism vs Purposivism, Constitutionalism, Judicial Activism, Separation of Powers.

1. Introduction

The study of legal method in the Indian context necessitates an exploration of the epistemological shift from a rule-bound, colonial-inherited formalism to a value-oriented, indigenous jurisprudence.¹ Legal method, in its broadest sense, refers to the systematic process by which judges, practitioners, and scholars interpret and apply the law to specific factual matrices.² For the first several decades following independence, the Indian judiciary operated under a methodologically restrictive framework, often referred to as "black letter" law or mechanical jurisprudence.³ This approach was characterized by an adherence to the literal meaning of statutes and a profound deference to legislative intent as expressed through the plain text.⁴ However, as the Indian republic matured, the role of the judiciary evolved from a mere "impersonal voice" of external legal sources to a "magisterial" arbiter of constitutional morality.⁵

The central notion of this critique is that the Indian judiciary's methodological evolution from literalism to purposive interpretation represents a necessary, albeit contested, alignment of the legal system with the transformative aspirations of the 1950 Constitution.⁶ This shift was not merely an academic exercise in linguistics but a response to the profound social, economic, and political upheavals that defined post-colonial India.⁷ The judiciary, particularly the Supreme Court, recognized that a rigid, text-based interpretation of the "Rule of Law" often produced results that were antithetical to the "Justice" promised in the Preamble.⁸

¹ MK Srinivas, 'EVOLUTION OF THE COURT SYSTEM IN INDIA: FROM ANCIENT JUSTICE TO SMART COURTS' [2026] Indian Journal of Legal Research and Review (IJLRR) accessed 18 April 2026.

² Prabhakar Singh, 'Spinning Yarns From Moonbeams: A Jurisprudence of Statutory Interpretation in Common Law' (2021) 42 Statute Law Review 266 <<https://doi.org/10.1093/SLR/HMY035>> accessed 18 April 2026.

³ varna Srinivasan and Aditya Rao, 'A Supreme Sleight Of Hand - The Evolution Of The Indian Judiciary And The Theories Of Law It Follows' [2025] IJLLR <<https://www.ijllr.com/post/a-supreme-sleight-of-hand-the-evolution-of-the-indian-judiciary-and-the-theories-of-law-it-follows>> accessed 18 April 2026.

⁴ Sean Donlan and Rónán Kennedy, 'A Flood of Light?: Comments on the Interpretation Act 2005' [1996] Judicial Studies Institute Journal

<https://www.researchgate.net/publication/228206473_A_Flood_of_Light_Comments_on_the_Interpretation_Act_2005> accessed 18 April 2026.

⁵ William D Popkin, 'Evolution of the Judicial Opinion : Institutional and Individual Styles' [2007] New York University Press 301 <<https://dokumen.pub/evolution-of-the-judicial-opinion-institutional-and-individual-styles-9780814768419.html>> accessed 18 April 2026.

⁶ Chintan Chandrachud, 'The Four Phases of Constitutional Interpretation - The Hindu' The Hindu (26 January 2020) <<https://www.thehindu.com/opinion/lead/the-four-phases-of-constitutional-interpretation/article30653706.ece>> accessed 18 April 2026.

⁷ Madan B Lokur and others, 'Constitutional Ideals Development and Realisation Through Court-Led Justice' <www.oakbridge.in> accessed 18 April 2026.

⁸ Yogita Khatri, 'AN ANALYSIS OF "THE IMPORTANCE OF BASIC STRUCTURE DOCTRINE": IN COMMEMORATION OF THE 50TH ANNIVERSARY OF THE LANDMARK JUDGEMENT 'KESAVANANDA BHARATI V. STATE OF KERALA' (2024) II <<https://www.ijlra.com/public/details/an->

Consequently, the Court transitioned through various interpretive stages from the Literal Rule to the Mischief Rule, and eventually to Purposive Interpretation and Transformative Constitutionalism.⁹

This methodological journey reflects the tension between "legalism," which prioritizes certainty and the separation of powers, and "social engineering," which prioritizes equitable outcomes and human dignity.¹⁰ The role of the judiciary shifted from a neutral referee in a deductive legal system to a proactive guardian of rights in an inductive framework.¹¹ By examining the evolution of key interpretive techniques and the landmark judgments that catalysed these changes, this report seeks to provide a nuanced critique of how the Indian judiciary has moved beyond the black letter to embrace a "living" constitution that adapts to the shifting dynamics of the society it governs.¹²

2. Historical Development

The institutional and methodological foundations of the Indian judiciary are deeply rooted in a blend of ancient indigenous practices and colonial institutionalization.¹³ Prior to the advent of British rule, justice in India was largely decentralized and based on the concept of *Dharma* a comprehensive moral and ethical code that governed individual and social behavior.¹⁴ In the ancient Vedic period, the King was considered the *Dharma Pravartaka* (upholder of law), dispensing justice with the aid of learned Brahmins and ministers in bodies such as the *Sabha* and *Samiti*.¹⁵ Judicial procedure was subdivided into four stages, including the statement of the case and the enforcement of decisions, reflecting a sophisticated, albeit customary, legal tradition.¹⁶

The arrival of the British East India Company marked a significant rupture in this continuity,

analysis-of-%E2%80%9Cthe-importance-of-basic-structure-doctrine%E2%80%9D-in-commemoration-of-the-50th-anniversary-of-the-landmark-judgement-%E2%80%98kesavananda-bharati-v-state-of-kerala-by-yogita-khatri> accessed 18 April 2026.

⁹ BC Nirmal, '18 Modern Statutory Interpretation (2022)' (2023) 65 Journal of the Indian Law Institute 225 <<http://localhost:8080/xmlui/handle/123456789/48206>> accessed 18 April 2026.

¹⁰ Lokur and others (n 7).

¹¹ BN Srikrishna, 'JUDICIAL ACTIVISM- JUDGES AS SOCIAL ENGINEERS' Law Resource India <<https://indialawyers.wordpress.com/judicial-activism-judges-as-social-engineers/>> accessed 18 April 2026.

¹² Nirmal (n 9).

¹³ Srinivas (n 1).

¹⁴ *ibid.*

¹⁵ Soumya Srivastava, 'Evolution of Indian Judicial System' (2023) 6 International Journal of Law Management & Humanities <<https://doi.org/10.1000/IJLMH.115387>> accessed 18 April 2026.

¹⁶ *ibid.*

as the Company established formal courts modelled on English common law to govern its growing territories.¹⁷ The Charter of 1681 and the establishment of the Supreme Court of Calcutta in 1774 introduced a codified, Westernized legal system that emphasized procedural regularity and the "command" theory of law advocated by legal positivists like John Austin.¹⁸ This colonial legal order sought to replace the pluralistic, *Dharma*-based adjudication with a unified, state-centered framework designed to enforce the sovereign's will.¹⁹

Historical Era	Key Judicial Institution	Methodological Orientation	Source of Authority
Vedic/Ancient	King and Popular Courts (<i>Sabha</i>)	Customary, Dharma-based morality ²⁰	Moral/Ethical Duty (<i>Dharma</i>)
Medieval	Qazi Courts (Delhi Sultanate/Mughals)	Islamic Law (Sharia) influenced ²¹	Religious Decrees
Colonial	High Courts and Privy Council	Formalism, Literalism, English Common Law ²²	British Crown/Parliament
Federal (1937-1950)	Federal Court of India	Provincial Autonomy and Federal Balancing ²³	Govt of India Act, 1935
Post-1950	Supreme Court of India	Constitutional Supremacy and Purposivism ²⁴	Constitution of India

The Government of India Act 1935 was a pivotal moment in this genesis, as it introduced the concept of a federation and established the Federal Court of India to adjudicate disputes

¹⁷ S Sekhar, 'EVOLUTION OF THE JUDICIARY IN INDIA' (2022) 20 <<https://doi.org/10.48047/NQ.2022.20.9.NQ44952>> accessed 18 April 2026.

¹⁸ Srinivasan and Rao (n 3).

¹⁹ Srinivas (n 1).

²⁰ Srinivas (n 1).

²¹ Sekhar (n 17).

²² *ibid.*

²³ Arka Biswas, 'ANALYSING THE SCOPE OF JUDICIAL REVIEW IN CONTEMPORARY ISSUES' [2024] LawFoyer International Journal of Doctrinal Legal Research 67 <<https://www.latestlaws.com/articles/doctrine-of-judicial-review-in->> accessed 18 April 2026.

²⁴ Chandrachud (n 6).

between provinces and the center.²⁵ The Federal Court served as a crucial transitional body, providing the nascent Indian state with experience in constitutional adjudication.²⁶ At this stage, the final appellate authority remained with the Judicial Committee of the Privy Council (JCPC) in London.²⁷ The JCPC's influence was double-edged: while it promoted a "generous and purposive" approach to constitutional interpretation in its overseas jurisdictions, it simultaneously reinforced a culture of "high mandatory formality" and textualism in statutory interpretation.²⁸

Upon the commencement of the Constitution in 1950, the Supreme Court of India inherited the institutional structure and the methodological habits of the colonial bar.²⁹ The first generation of Indian judges was trained in the British tradition of legal positivism, viewing the law as a set of fixed rules to be discovered through literal interpretation rather than created through judicial activism.³⁰ The transition from the "black letter" of colonial statutes to the "living document" of the Indian Constitution was not immediate.³¹ The Court initially struggled with the tension between the inherited British methods—which favored legislative supremacy and narrow construction—and the urgent Indian needs for social revolution and the redistribution of resources.³² This historical backdrop is essential for understanding the "Literal Rule Era," where the Court's refusal to look beyond the text of the law often resulted in the preservation of the status quo at the expense of individual liberty.³³

3. The Literal Rule Epoch

The initial decades of the Supreme Court of India, spanning roughly from 1950 to the early 1970s, were defined by a methodological commitment to the "Literal Rule" of interpretation.³⁴ In this period, the Court adhered to the positivist view that the task of a judge is strictly to give effect to the plain meaning of the words used by the legislature, regardless of the perceived

²⁵ Biswas (n 22).

²⁶ *ibid.*

²⁷ Roger Masterman, 'The Constitutional Influence of the Judicial Committee of the Privy Council on the UK Apex Court: Institutional Proximity and Jurisprudential Divergence?' (2020) 71 Northern Ireland Legal Quarterly 285 <<https://doi.org/10.53386/NILQ.V71I2.320>> accessed 18 April 2026.

²⁸ *ibid.*

²⁹ Srinivasan and Rao (n 3).

³⁰ *ibid.*

³¹ Nirmal (n 9).

³² Chandrachud (n 6).

³³ *ibid.*

³⁴ Srinivasan and Rao (n 3).

fairness or absurdity of the outcome.³⁵ This "mechanical jurisprudence" was based on a rigid concept of the Rule of Law, where legal certainty and the separation of powers were prioritized over the substantive pursuit of justice.³⁶

3.1. A.K. Gopalan and the Compartmentalization of Rights

The seminal case of this era is *A.K. Gopalan v. State of Madras* (1950), which set the tone for constitutional interpretation for nearly three decades. The petitioner, a Communist leader, challenged his preventive detention, arguing that it violated the fundamental rights guaranteed under Articles 14, 19, and 21 of the Constitution.³⁷ The majority of the six-judge bench adopted a strictly literal and compartmentalized approach to interpreting these rights.³⁸ Chief Justice Kania held that Article 21, which protects life and personal liberty, only required the state to follow a "procedure established by law".³⁹

The Court's reasoning in *Gopalan* was characterized by several key methodological stances:

(A) Rejection of Due Process: The Court explicitly rejected the argument to import the American concept of "due process of law," which includes requirements of fairness and reasonableness. It noted that the framers of the Constitution had deliberately chosen the phrase "procedure established by law" to give supremacy to the legislature.⁴⁰

(B) Compartmentalization: The majority ruled that fundamental rights were separate, self-contained codes. If a law satisfied the requirements of Article 21 (deprivation of liberty according to a validly enacted law), it could not be challenged for violating the freedoms under Article 19, such as the right to freedom of movement.⁴¹

(C) Literal Interpretation of "Law": The term "law" in Article 21 was interpreted to mean state-made law, not the principles of natural justice.⁴² This narrow reading effectively meant that as long as a law existed on the statute books and the state

³⁵ Michael Zander, 'Statutory Interpretation' [2004] *The Law-Making Process* 127 <<https://doi.org/10.1017/CBO9780511818417.005>> accessed 18 April 2026.

³⁶ Donlan and Kennedy (n 4).

³⁷ *AK Gopalan vs The State Of Madras* Union Of India.

³⁸ *ibid.*

³⁹ *ibid.*

⁴⁰ *ibid.*

⁴¹ *ibid.*

⁴² *ibid.*

followed its prescribed procedure, the deprivation of liberty was constitutionally valid.⁴³

3.2. Statutory Formalism and the Mischief Rule

While constitutional interpretation remained rigid, the Court occasionally employed the "Mischief Rule" (from *Heydon's Case*) in statutory matters, as seen in *R.M.D. Chamarbaugwala v. Union of India*.⁴⁴ The Mischief Rule allowed the Court to look at the historical context to determine the problem the statute was intended to remedy. However, in the Literal Era, this rule was often used to narrow the effect of legislation rather than to expand it.⁴⁵ The "Golden Rule" was also recognized, permitting a departure from literal meaning only to avoid a manifest absurdity that the legislature could not have intended.⁴⁶ Yet, the threshold for "absurdity" remained high, and judges were cautioned against substituting their own notion of justice for the clear words of a statute.⁴⁷

Interpretive Rule	Core Principle	Judicial Application in the Literal Era
Literal Rule	Give words their plain, ordinary meaning ⁴⁸	Primary tool; led to narrow interpretation of Article 21 ⁴⁹
Golden Rule	Modify literal meaning only to avoid absurdity ⁵⁰	Rarely invoked; prioritized legislative intent ⁵¹
Mischief Rule	Focus on the defect the law sought to cure ⁵²	Used primarily in taxation and fiscal statutes

⁴³ *ibid.*

⁴⁴ *R M D Chamarbaugwala vs The Union Of India.*

⁴⁵ *Donlan and Kennedy* (n 4).

⁴⁶ *ibid.*

⁴⁷ *Zander* (n 35).

⁴⁸ *Donlan and Kennedy* (n 4).

⁴⁹ *A.K. Gopalan vs The State Of Madras.Union Of India* (n 37).

⁵⁰ *Donlan and Kennedy* (n 4).

⁵¹ *Zander* (n 35).

⁵² *Donlan and Kennedy* (n 4).

The Literal Rule Era reflected a judiciary that saw itself as a faithful agent of the state rather than a transformative branch of government.⁵³ The "Rule of Law" was understood as a procedural safeguard a check on executive action but a submissive partner to legislative will.⁵⁴ This methodology proved inadequate when the state used its legislative power to enact oppressive measures, most notoriously during the Internal Emergency of 1975, where the Court's literalist stance in *ADM Jabalpur v. Shivkant Shukla* allowed for the suspension of the right to life itself.⁵⁵ The trauma of the Emergency forced a fundamental re-evaluation of the judicial role, leading to "The Great Shift" toward a more structuralist and purposive approach.⁵⁶

4. The Great Shift

The period following the 1970s represents the most significant methodological pivot in Indian constitutional history.⁵⁷ This era was marked by a transition from a "Legalist Approach" to a "Structuralist Approach," where the Court began to look at the Constitution's overall coherence and spirit rather than just its individual provisions.⁵⁸ This shift was catalyzed by the "Basic Structure" doctrine and the emergence of "Inductive Reasoning," which allowed the Court to prioritize "Justice" over a narrow, positivist reading of the "Law".⁵⁹

4.1 The Birth of the Basic Structure: Kesavananda Bharati

The landmark judgment in *Kesavananda Bharati v. State of Kerala* (1973) is the defining moment of this shift.⁶⁰ In a 7:6 majority, the Supreme Court ruled that while Parliament has wide powers to amend the Constitution under Article 368, it does not have the power to destroy its "basic structure" or "fundamental features". This doctrine was a radical methodological innovation; it was not explicitly mentioned in the text of the Constitution but was inferred by the Court as a "structural necessity" to preserve the document's identity.⁶¹

Methodologically, *Kesavananda Bharati* achieved the following:

⁵³ Srinivasan and Rao (n 3).

⁵⁴ Srikrishna (n 11).

⁵⁵ Lokur and others (n 7).

⁵⁶ Chandrachud (n 6).

⁵⁷ Srinivasan and Rao (n 3).

⁵⁸ Chandrachud (n 6).

⁵⁹ *ibid.*

⁶⁰ *Kesavananda Bharati Vs State of Kerala* 1973.

⁶¹ *ibid.*

(A) **Limitation on Constituent Power:** It established that "amendment" does not mean "abrogation." The power to amend implies the continued existence of the original entity.⁶²

(B) **Recognition of Constitutional Identity:** The Court argued that the Constitution has a unique "personality" or "identity" that remains immutable.⁶³

(C) **Expansion of Judicial Review:** By creating the Basic Structure test, the Court empowered itself to strike down even constitutional amendments, effectively positioning the judiciary as the final arbiter of constitutional values.⁶⁴

Basic Structure Dimension	Element Identified by the Court	Impact on Methodology
Institutional	Separation of Powers / Judicial Review ⁶⁵	Prevents executive or legislative dominance ⁶⁶
Normative	Rule of Law / Democracy / Secularism ⁶⁷	Anchors interpretation to foundational ideals ⁶⁸
Individual	Fundamental Rights (Article 14, 19, 21) ⁶⁹	Rights are seen as an inviolable core ⁷⁰

⁶² *ibid.*

⁶³ J Neo, 'Populism and the Politics of Constitutional' <<https://academic.oup.com/icon/advance-article/doi/10.1093/icon/moag029/8566191>> accessed 20 April 2026.

⁶⁴ Shree Agnihotri, 'Interpreting without Bannisters? The Abstraction Problem Afflicting the Basic Structure Doctrine' (2024) 8 Indian Law Review 231 <<https://doi.org/10.1080/24730580.2024.2376474>> accessed 20 April 2026.

⁶⁵ Kesavananda Bharati Vs. State of Kerala 1973 (n 60).

⁶⁶ Wajid Aziz Qureshi and Fakhar Mahmood Makhdoom, 'Judicial Evolution of the Basic Structure Theory: A Comparative Constitutional Analysis of Pakistan and India' (2025) 3 Law Research Journal 1 <<https://lawresearchreview.com/index.php/Journal/article/view/179>> accessed 20 April 2026.

⁶⁷ Kesavananda Bharati Vs. State of Kerala 1973 (n 60).

⁶⁸ *ibid.*

⁶⁹ Setu Gupta, 'VICISSITUDES AND LIMITATIONS OF THE DOCTRINE OF BASIC STRUCTURE' [2016] ILI Law Review.

⁷⁰ *ibid.*

4.2. Inductive Reasoning and the Quest for "Complete Justice"

The Great Shift also saw the emergence of "Inductive Reasoning" in judicial process.⁷¹ In a deductive system, a judge starts with a fixed rule and applies it to facts. In the new inductive framework, the Court often starts with the desired outcome of "Justice" (social, economic, or political) and interprets the law to achieve that outcome.⁷² This approach is most visibly manifested in the Supreme Court's use of Article 142, which grants it the power to pass any order necessary for doing "complete justice" in any cause or matter.⁷³ An empirical study shows that the Court has increasingly used this inherent power to bypass procedural hurdles and provide relief to marginalized groups, such as prisoners, pavement dwellers, and environmental victims.⁷⁴

The trauma of the Emergency (1975-1977) acted as a catalyst for this shift.⁷⁵ The Court's failure to protect citizens during the Emergency led to a "penitent" judiciary that sought to redeem its image by becoming an activist institution.⁷⁶ This resulted in the birth of Public Interest Litigation (PIL), which relaxed the traditional rule of *locus standi* (standing), allowing any public-spirited citizen to approach the Court on behalf of those who cannot.⁷⁷ Through PIL, the Court began "Social Engineering," using law as a tool for proactive social change rather than just reactive dispute resolution.⁷⁸

5. Modern Techniques

In the contemporary era, the Indian judiciary has moved fully into the realm of "Purposive Interpretation" and "Transformative Constitutionalism".⁷⁹ This methodology views the Constitution not as a static contract but as a "living document" that must be interpreted in a way that fulfills its underlying purpose of transforming an archaic, patriarchal society into an

⁷¹ Prabhakar Singh, 'Spinning Yarns From Moonbeams: A Jurisprudence of Statutory Interpretation in Common Law' (2021) 42 Statute Law Review 266 <<https://doi.org/10.1093/SLR/HMY035>> accessed 20 April 2026.

⁷² *ibid.*

⁷³ NLSIU, 'National Law School of India Review (NLSIR) | Journals | National Law School of India University' (2025) <<https://repository.nls.ac.in/nlsir/>> accessed 20 April 2026.

⁷⁴ *ibid.*

⁷⁵ Lokur and others (n 7).

⁷⁶ Chandrachud (n 6).

⁷⁷ *ibid.*

⁷⁸ Perna Murlidhar, 'Expanding Dimensions of the Right to Life under Article 21 of the Constitution of India: From Animal Existence to Human Dignity - Ijarety.In' [2026] IJARETY <<https://ijarety.in/article/Expanding-Dimensions-of-the-Right-to-Life-under-Article-21-of-the-Constitution-of-India--From-Animal-Existence-to-Human-Dignity-2007>> accessed 20 April 2026.

⁷⁹ Nirmal (n 9).

egalitarian democracy.⁸⁰

5.1. The Golden Triangle and the Expansion of Article 21

The case of *Maneka Gandhi v. Union of India* (1978) was the breakthrough for modern interpretive techniques.⁸¹ The Supreme Court overturned the *Gopalan* compartmentalization theory and established the "Golden Triangle" test.⁸² The Court held that Articles 14 (Equality), 19 (Freedoms), and 21 (Life and Liberty) are not mutually exclusive but form a cohesive unit.⁸³ Any law depriving a person of life or liberty must now meet the triple test of being: (1) prescribed by law; (2) reasonable and fair; and (3) non-arbitrary.⁸⁴

This purposive expansion led to the recognition of several unenumerated rights under Article 21:

(A) **Right to Dignity:** "Life" is more than "mere animal existence".⁸⁵

(B) **Right to Livelihood:** Recognized in *Olga Tellis v. Bombay Municipal Corporation*.⁸⁶

(C) **Right to Privacy:** Firmly established in *Justice K.S. Puttaswamy v. Union of India* (2017).⁸⁷

(D) **Right to a Clean Environment:** Developed through environmental PILs.⁸⁸

5.2. Social Engineering and International Conventions

The Court has also used international law to fill legislative vacuums, a technique known as "judicial legislation" or "social engineering".⁸⁹ In *Vishaka v. State of Rajasthan*, the Court used

⁸⁰ *ibid.*

⁸¹ SCO, 'The Right to Life and Personal Liberty under Article 21: A Timeline - Supreme Court Observer' <<https://www.scobserver.in/journal/the-right-to-life-and-personal-liberty-under-article-21-a-timeline/>> accessed 20 April 2026.

⁸² Noorin Jahan, 'The Maneka Gandhi Revolution: Transforming Article 21 And Redefining Fundamental Rights In India' [2025] IJLLR <<https://www.ijllr.com/post/the-maneka-gandhi-revolution-transforming-article-21-and-redefining-fundamental-rights-in-india>> accessed 20 April 2026.

⁸³ *ibid.*

⁸⁴ SCO (n 81).

⁸⁵ Murlidhar (n 78).

⁸⁶ SCO (n 81).

⁸⁷ Sanjana Aggarwal, '"AI AND THE RIGHT TO PRIVACY: ANALYSING THE SCOPE OF INFORMATIONAL AUTONOMY' [2025] JETIR <www.jetir.org> accessed 20 April 2026.

⁸⁸ Chandrachud (n 6).

⁸⁹ *ibid.*

the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to formulate guidelines against sexual harassment in the workplace, as no domestic law existed at the time.⁹⁰ This methodology demonstrates a move beyond the "black letter" of domestic law to embrace global human rights standards.⁹¹

5.3. Transformative Constitutionalism: 2018 and Beyond

Recent jurisprudence has seen the rise of "Transformative Constitutionalism," where the Court uses its interpretive power to challenge traditional social mores.⁹² In *Navtej Singh Johar v. Union of India* (2018), the Court decriminalized consensual same-sex acts by reading down Section 377 of the IPC.⁹³ The Court emphasized "constitutional morality" over "social morality," arguing that the Constitution must guide society's transformation.⁹⁴ This approach was echoed in *Joseph Shine v. Union of India* (striking down adultery laws) and the *Sabarimala* temple entry case (*Indian Young Lawyers Association v. State of Kerala*), where the Court lifted the ban on women of reproductive age, grounding its decision in the "trinity of dignity, equality, and liberty".⁹⁵

Modern Case	Interpretive Method	Social Engineering Outcome
Vishaka	Integration of International Law ⁹⁶	Guidelines on Workplace Sexual Harassment ⁹⁷
Navtej Johar	Transformative Constitutionalism ⁹⁸	Decriminalization of Homosexuality ⁹⁹

⁹⁰ *ibid.*

⁹¹ Kush Trivedi, 'Globalizing Justice: The Evolution of Personal Liberty Through Maneka Gandhi Case ' 7 235 <<https://ijlsi.com/paper/globalizing-justice-the-evolution-of-personal-liberty-through-maneka-gandhi-case/>> accessed 20 April 2026.

⁹² Shreya Atrey, 'Feminist Constitutionalism: Mapping a Discourse in Contestation' (2022) 20 International Journal of Constitutional Law 611 <<https://doi.org/10.1093/ICON/MOAC029>> accessed 20 April 2026.

⁹³ Global Freedom of Expression | Navtej Singh Johar v Union of India - Global Freedom of Expression.

⁹⁴ Abhay Kumar and Ganesh Pandey, 'TRANSFORMATIVE CONSTITUTIONALISM AND THE EXPANSION OF LGBT RIGHTS IN INDIA: A HUMANISTIC ANALYSIS - RostrumLegal' (2022) 7 Rostrum Legal <<https://www.rostrumlegal.com/transformative-constitutionalism-and-the-expansion-of-lgbt-rights-in-india-a-humanistic-analysis/>> accessed 20 April 2026.

⁹⁵ Khatri (n 8).

⁹⁶ Chandrachud (n 6).

⁹⁷ *ibid.*

⁹⁸ Kumar and Pandey (n 94).

⁹⁹ Global Freedom of Expression | Navtej Singh Johar v. Union of India - Global Freedom of Expression (n 93).

Puttaswamy	Purposive / Structuralist ¹⁰⁰	Recognition of Privacy as a Fundamental Right ¹⁰¹
Anuradha Bhasin	Proportionality Test	Scrutiny of Internet Shutdowns and Digital Rights ¹⁰²

6. Act V: Comparative Lens

The Indian judiciary's transition from literalism to purposivism is best understood through a comparative analysis with the legal systems of the United Kingdom and the United States, as the Indian Court has frequently engaged in "cross-constitutional borrowing" to justify its own doctrinal expansion.¹⁰³

6.1. India vs. the United Kingdom

The Indian legal system shares a common heritage with the UK, but their paths have diverged significantly.¹⁰⁴ While the UK remains a system of parliamentary sovereignty, the Indian Supreme Court has asserted the "Basic Structure" doctrine, which has no parallel in the UK's unwritten constitution.¹⁰⁵ In the realm of statutory interpretation, both jurisdictions have seen a "post-1998 enthusiasm" for purposive approaches.¹⁰⁶ However, while the UK's highest court (*Pepper v. Hart*) relaxed the rule against using parliamentary debates only to clarify ambiguity, the Indian Court often uses "purpose" to effectively rewrite or read down statutes to align with constitutional values.¹⁰⁷

6.2. India vs. the United States

The Indian Supreme Court's expansion of Article 21 is often compared to the American doctrine of "Substantive Due Process".¹⁰⁸ In the US, identifying "new" substantive rights in

¹⁰⁰ Aggarwal (n 87).

¹⁰¹ *ibid.*

¹⁰² *ibid.*

¹⁰³ Nuno Garoupa and others, 'The Indian Journal of Constitutional Law' (2011) 5 The Indian Journal Of Constitutional Law <<https://nalsar.ac.in/sites/default/files/IJCL%20Volume-5.pdf>> accessed 20 April 2026.

¹⁰⁴ Masterman (n 27).

¹⁰⁵ Gupta (n 69).

¹⁰⁶ Masterman (n 27).

¹⁰⁷ Donlan and Kennedy (n 4).

¹⁰⁸ Harvard Law Review, 'The "History and Tradition" of Substantive Due Process in State Constitutions ' (2026) 139 Harvard Law Review <<https://harvardlawreview.org/print/vol-139/the-history-and-tradition-of-substantive-due-process-in-state-constitutions/>> accessed 20 April 2026.

procedural penumbras is sometimes criticized as "judicial usurpation" or "judicial aggrandizement".¹⁰⁹ The US Court has historically swung between periods of judicial activism (the *Lochner* era) and judicial restraint.¹¹⁰ In contrast, the Indian Court has largely maintained a trajectory of "progressive and purposive" interpretation since the late 1970s, rarely reverting to strict literalism in constitutional matters.¹¹¹ Furthermore, India has developed a unique "horizontal application" of rights, where constitutional obligations are increasingly imposed on private actors, a feature that is less prevalent in the predominantly "vertical" US constitutional tradition.¹¹²

Comparative Dimension	Indian Supreme Court	UK Supreme Court / JCPC	US Supreme Court
Constitutional Basis	Written; Supreme ¹¹³	Unwritten; Parliamentary Sovereignty	Written; Supreme
Primary Methodology	Transformative Constitutionalism ¹¹⁴	Purposive Construction (Post-1998)	Originalism vs. Living Constitution
Review Power	Can strike amendments (Basic Structure) ¹¹⁵	Limited (HRA 1998)	Substantive Due Process Review
Horizontal Effect	Strong (Articles 15, 17, 21)	Limited	Weak

7. Conclusion

The evolution of the Indian Judiciary from a state of "grammatical caution" to one of "transformative ambition" represents one of the most significant methodological shifts in

¹⁰⁹ *ibid.*

¹¹⁰ *ibid.*

¹¹¹ Lokur and others (n 7).

¹¹² Tarunabh Khaitan, 'READING SWARAJ INTO ARTICLE 15: A NEW DEAL FOR ALL MINORITIES' [2009] NUJS LAW REVIEW <www.manupatra.com> accessed 20 April 2026.

¹¹³ *Kesavananda Bharati Vs. State of Kerala* 1973 (n 60).

¹¹⁴ Kumar and Pandey (n 94).

¹¹⁵ *Kesavananda Bharati Vs. State of Kerala* 1973 (n 60).

global constitutional history. This transition marks the decline of the Literal Rule—which once prioritized the sterile text of the law as seen in *A.K. Gopalan v. State of Madras*—in favor of a Purposive Interpretation that seeks to breathe life into the Constitution's democratic promises.

The Judiciary has successfully navigated the tension between the Mischief Rule, aimed at correcting legislative gaps, and the Golden Rule, used to avoid manifest absurdity. However, as evidenced in the shift from *R.M.D. Chamarbaugwala v. Union of India* to the expansive rights-based jurisprudence of *Maneka Gandhi v. Union of India*, the Court has moved beyond mere interpretation into the realm of Transformative Constitutionalism. This methodology, while essential for upholding the "Golden Triangle" of fundamental rights, invites a necessary critique regarding the boundaries of judicial power.

Ultimately, the Indian experience suggests that legal methods are not mere neutral tools; they are reflections of a nation's evolving social contract. While the shift toward a purposive approach has empowered the marginalized and secured the "Basic Structure," it necessitates a disciplined application to prevent the erosion of the separation of powers. The future of Indian jurisprudence lies in balancing this creative activism with a commitment to legal certainty, ensuring that the pursuit of substantive justice does not compromise the institutional integrity of the democratic framework.