
EMBEDDING JUSTICE THROUGH MULTI-BRANCH INSTITUTIONAL REFORM

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ABSTRACT

This study looks into the way in which Justice in India is achieved. It argues that while Courts have expanded how we view morally how we achieve justice, the delivery of Justice is vastly unequal across the Indian Landscape due to cultural resistance, administrative deficiencies in the system, and fractured implementation of Justice from State to State. A parallel can be drawn to South Africa in addition to additional factors that affect the availability of Justice in India and the provision of Justice to the Indian Public: The essay asserts that the Justice deficit in India is a result of the failure to deliver Justice operationally rather than conceptually. Justice cannot be delivered through the use of the Courts alone; there is a need for courageous legislative leadership, an administration to execute the delivery of Justice against standards of Justice and citizen involvement through education and engagement. The future model of Civic Constitutionalism that I present will provide a clear mandate for the delivery of Substantive Justice through Relationships and the Institutionalisation of Citizenship.

I. INTRODUCTION

The Indian Constitution provides for a balance of rights and duties, implying that citizens are not just entitled to legal rights but also are obliged to fulfil responsibilities towards their country and community, and are expected to participate in their own governance. To achieve this goal of justice as outlined in India's Constitution, it cannot simply be left to the courts to issue decisions on behalf of all citizens; rather, the Ministry of Law has emphasized the importance of promoting Fundamental Duties, which "play a crucial role in the development of responsible citizenship," through a constitutional democracy¹.

An effective solution to achieving true constitutional justice can only be developed through a collaborative effort among all levels of government, as well as citizens, based on the belief that the purpose of justice is to establish substantive constitutionalism, a system of law and society within which all citizens have both rights and responsibilities, with equality, dignity, and democratic governance as its core elements.

II. COURTS VS. MULTI-BRANCH ALIGNMENT

In many relevant landmark cases, the courts specifically refer to the Fundamental Duties as guiding principles outlining how to protect and maintain goods of the public. In *MC Mehta v. Union of India*², for example, the Court specifically stated that the State must instruct all Schools to teach environmental protection weekly under Article 51A(g) as part of their educational program. The Court has also encouraged public administrators to remove "narrow biases" and work for the benefit of society, as "enlightened citizens" who are obligated by the Fundamental Duties.³

These decisions are evidence of how the judiciary has interpreted the power given to them through the Constitution to enforce duties under Article 51A and its principles in accordance with Directive Principles.

While the Parliament and the States must enact legislation to provide the legal framework to

¹ Press Release, Cultivation of Duty-Centred Values: Implementation of Fundamental Duties Under Article 51A of the Indian Constitution is a Vital Step Toward Fostering Responsible Citizenship Within a Constitutional Democracy (Aug. 8, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2154079®=3&lang=2>.

² *M.C. Mehta v. Union of India*, (1987) 1 SCC 395.

³ *Effectuation of Fundamental Duties of Citizens* (Ministry of Law & Justice, Gov't of India), [https://legalaffairs.gov.in/sites/default/files/\(V\)Effectuation%20of%20Fundamental%20Duties%20of%20Citizens.pdf](https://legalaffairs.gov.in/sites/default/files/(V)Effectuation%20of%20Fundamental%20Duties%20of%20Citizens.pdf).

implement the duties assigned to citizens by Article 51A, the Attorney General argued recently that legislative or judicial mandates are insufficient to enforce duties. They must instead be nurtured culturally. Consequently, the judicial mandates for the enforcement of duties are lacking in two main areas: First, statutory legislation needs to be enacted, and the Executive must create awareness and enforcement programs to ensure that the Constitutional ideals can be realized.

III. POLICY GAPS AND ENFORCEMENT FAILURES

India has many important laws in relation to constitutional values, such as laws that prohibit destruction of public property and provide protection for the environment, however, the overall effectiveness of these laws varies greatly. The judiciary has found that characteristics of gender-based crimes, as well as degradation of the environment, have continued to occur despite stringent laws being in place, and that crime rates continue "uninterruptedly" it reflects an "Abysmal failure" of our system. Scholars attribute this to ingrained caste and gender bias which are entrenched within our cultural system⁴. In addition, Social Structures and Agencies ignore the importance of laws and cannot act upon even one of the best examples of legal reform. For example, India's 2013 (Amendment) Act (the Criminal Law)⁵ increased the severity of the Penalties placed on rapists, however, police have been unable to comply with the majority of offences committed, therefore creating a large backlog of cases and discouraging victims of rape by way of Stigma. Similarly, India has a Right to Education (R.T.E) that guarantees that Schools are available for all children, but due to gaps in the process of implementing these laws, there are still millions of children who do not currently attend School⁶.

The unequal distribution of services based on state-by-state differences in education policy, criminal justice, and social welfare, is a major factor in why certain states have chosen to invest heavily in civic education and protection against violence against women (e.g., Kerala/Himachal Pradesh) while other states do not. The Supreme Court identified that there is also considerable variation among states in how effectively they have attempted to promote

⁴ P. et al., *Gender-Based Variations in Crime: Case Studies and Data Analysis*, *Medico Legal Update* (2025), <https://doi.org/10.37506/t45rc165>.

⁵ *Criminal Law (Amendment) Act, 2013*, No. 13, Acts of Parliament, 2013 (India).

⁶ Pandey & Agrawal, *Right to Education Act in India: Issues and Challenges*, <https://consensus.app/papers/right-to-education-act-in-india-issues-and-challenges-pandey-agrawal/b9a2c241fdb3511caf15a42f1129181e>

the Fundamental Duty to use communications technology. Some states utilize large scale cultural festivals/events as a tool to educate the general public about their Fundamental Duty and other states only offer limited opportunities for this. Moreover, the additional variance in states' ability to enforce these laws can be attributed to a lack of adequate resources for police, inefficient Bureaucracies, and local elites blocking the implementation of constitutional laws uniformly. Therefore, without a unified national policy and proper government oversight, victims of inadequately enforced constitutional laws will never receive justice as provided for by the State Legislatures.⁷

IV. Roles for Institutions and Mechanisms

For justice reform initiatives to succeed, a comprehensive institutional framework must exist. In addition to courts, there are other parties that play an important role in the future evolution of justice reforms:

- i. Parliaments and Legislatures: Legislators need to be bold enough to convert constitutional values into law. It's possible that this may involve creating a comprehensive code of citizens' duties (which was requested by petitioners to The Supreme Court). Parliaments can also strengthen existing laws; for example, incorporating citizens' fundamental duties into the education system and defining them in the charter of public services. Numerous laws reflecting the values of duty have been created in India; however, these laws need to be evaluated, consolidated and adequately funded for them to be effectively enforced. Additionally, legislators must establish clear criteria that demarcate the end of emergency/special measures and allow for the safe transition of power from government to the people.⁸
- ii. Executive Agencies (UGC, MHRD, NCW, etc.): Various Executive Agencies like UGC, MHRD, NCW, etc. must add constitutional education to their programs and promote through a variety of methods. To this end, the National Education Policy 2020 specifically advocates the inclusion of constitutional values, fundamental

⁷ Augustine Betialikong Aboh, *Between Limited Laws and Conservative Patriarchal System: Why the Indian Security and Justice System is Less Effective to Prevent Gender-Based Violence against Women and Girls*, 16 Global Media J. 31 (2018).

⁸ Press Release, Cultivation of Duty-Centred Values: Implementation of Fundamental Duties Under Article 51A of the Indian Constitution is a Vital Step Toward Fostering Responsible Citizenship Within a Constitutional Democracy (Aug. 8, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2154079®=3&lang=2>.

duties and human values in education (i.e. School).⁹ The MHRD/UGC should also require Universities/Colleges to incorporate courses on the Constitution and Fundamental Duties in their curriculum, and provide funding to support student outreach on this subject, including through initiatives like Delhi University's Kartavyam Lecture Series.¹⁰ Other Ministries can play a role as well; for example, the National Commission for Women could help with national awareness campaigns regarding Gender Equality as a constitutional duty, provide grants to NGOs conducting civic education, and coordinate State Women's Commissions for addressing local injustices. Media regulatory agencies should also amend their content codes to promote ethical and responsible public dialogue and to lessen hate speech. For example, Germany's Federal Office for the Protection of the Constitution routinely looks for and acts against radical extremist propaganda; Indian media organizations could similarly use their existing laws regarding hate or misinformation to be more proactive in holding accountable those who violate them.¹¹

- iii. Panchayati Raj Institutions and Local Bodies: The best way to promote Rights and Duties Education is at the grassroots level of democracy. Local and state governments could engage with Panchayat level governments by including them in their civic programming. Local instances of "Constitution Day" activity could happen with participation from the Gram Sabha while other projects like the Shiksha Physical Certification Scheme could be turned into civic agency values through the Gram Schools. Adult literacy and health campaigns have been done by local village panchayats for many years, but incorporating civic education into these programs will provide constitutional awareness to those in villages that are miles away from urban areas. Local accountability can be achieved through MGNREGA payments for organizing these activities and using them to promote constitutional

⁹ *Nat'l Educ. Policy 2020* § 4.25 (Ministry of Educ., Gov't of India), https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf.

¹⁰ Press Release, Cultivation of Duty-Centred Values: Implementation of Fundamental Duties Under Article 51A of the Indian Constitution is a Vital Step Toward Fostering Responsible Citizenship Within a Constitutional Democracy (Aug. 8, 2025), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2154079®=3&lang=2>.

¹¹ *When Democracy Defends Itself: Reflections from Berlin to Buenos Aires* (Friedrich Naumann Found. for Freedom), <https://www.freiheit.org/iaf/when-democracy-defends-itself-reflections-berlin-buenos-aires>.

awareness.¹²

- iv. Civil Society and Academia: It is important for non-governmental actors to create pressure on institutions through partnerships with them. NGOs, legal associations, and student groups can be involved in providing workshops, such as "Know Your Rights and Responsibilities" workshops. In South Africa, the clerks of the Supreme Court set an example when clerks of the Constitutional Court conducted seminars at schools regarding the Bill of Rights. There are opportunities for Indian law schools and human rights groups to create similar outreach efforts, such as establishing Mobile Constitutional Courts or Youth Parliaments, to teach citizens about justice. It is equally important for think tanks and civic organizations to help develop model laws and monitor compliance with them by government entities, thereby reducing the gap between the legal theory and the realities experienced at the grassroots level.

V. COMPARATIVE ANALYSIS

There are examples of success that can serve as roads to follow. South Africa is one country that spends a great deal of time and resources on constitutional education. The clerks that work in the nation's Constitutional Court conduct interactive workshops for the high-school student population in which students partake in mini-court exercises to learn about their constitutional rights.¹³

Additionally, the aforementioned programs occurred because the South African government came to understand that “the health and longevity of constitutional democracy will rest primarily on the ability of the citizens to understand the importance and, most importantly, the purpose of those rights under the Constitution as well as the values enshrined in the Constitution.”

Likewise, India can follow a similar path by enacting laws that require judges to engage in community voting and civic education programs so that, over time, the people grow up with a

¹² *Mahatma Gandhi Nat'l Rural Emp't Guarantee Act, No. 42, Acts of Parliament, 2005* (India).

¹³ Elmarie Fourie, *Constitutional Values, Therapeutic Jurisprudence and Legal Education in South Africa: Shaping Our Legal Order*, 19 Potchefstroom Elec. L.J. 1 (2016), <https://doi.org/10.17159/1727-3781/2016/v19i0a732>.

strong appreciation for democracy and an understanding of civic responsibilities.

The concept of a "militant democracy" has had a significant influence in Germany due to the legacy of the Weimar Republic. As a result, Article 21 of the German Constitution allows for the preemptive protection of democratic order through the use of laws that limit access to the political system to certain individuals or groups based on their political beliefs. Additionally, Article 1 and the provisions regarding the protection of human dignity and the democratic structure of the German constitution cannot be amended. Parties and organizations that pose a threat to the German constitution may be prohibited by law, as well as the federal office that monitors extremist threats.

On a related note, India could establish similar mechanisms by granting the Election Commission or a similar authority the ability to monitor, investigate, and take action against political parties or platforms that promote violence or hatred. In addition, India's media laws should be amended to establish parallel protections for political parties that violate the Constitution, while still maintaining due process safeguards for those parties.

Similar to the examples cited above, embedding constitutional values requires a combination of educational initiatives and legal protections that are adapted to each country's unique circumstances.¹⁴

VI. CONSTITUTIONAL COMPLEXITY: FIVE HIDDEN VARIABLES OF JUSTICE EMERGENCE

In order to better grasp why the notions of constitutional justice remain inconsistent and sometimes fragile we can look at five under recorded variables in the Indian constitutional system. This will help us to capture the Indian Constitutional system and clarify these issues, they are: Value lag, Rights load bearing capability; Supply chains for access to Justice; Constitutional Cybernetics; and Slow Technology.

First, value lag is observed when legal norms around equality are embraced by the courts more quickly than they are embraced by substantial portions of the society. Societal acceptance of

¹⁴ Franziska Brandmann, *Radical-right Parties in Militant Democracies: How the Alternative for Germany's Strategic Frontstage Moderation Undermines Militant Measures*, 18 Eur. Const. L. Rev. 412 (2022), <https://doi.org/10.1017/s157401962200030x>.

LGBTQIA, gender equality and privacy rights are a few examples in the last several years of how value lags have manifested themselves. When legal morality moves more quickly than social morality, we create a situation where increased levels of backlash and lack of institutional support develop; that creates the time lag between when someone has been provided with their right and when that person has access to their right.

Second, the capacity of a society to support additional rights is finite in nature. The number of additional rights which a society can support is directly related to the level of education, equality and civic trust; as societies have less civic trust, or if they become more polarized based on identity, the strategies and processes which support access to justice therefore need to grow to be able to provide for the protection and enforcement of rights.

Third, Justice is dependent on the existence of Supply Chains that connect all of the critical steps from the daytime where a person files a complaint till you reach the end of the stage, enforcement of a right. If any link in that chain breaks (e.g., If police do not register FIR's; The police do not collect evidence; Judges do not enforce Judgments); the Rights become inert. Consequently, the existence of supply chains for Justice explains why People cannot rely on the Constitutional guarantees of protection.

Fourth, constitutional frameworks operate as cybernetic systems in which the outputs of courts (i.e., judgments) create feedback loops from the input of legislatures/bureaucracies (i.e., laws/rules/enforcements) and the reaction of society to that feedback (i.e., compliance or resistance) creates a new set of inputs into these same loops that allow for new litigation to re-enter the system's loop again.

Lastly, constitutions represent a form of "slow-tech"; by design they are meant to evolve at a rate that is slower than political evolution, yet quicker than cultural identity evolution. This intentional and necessary slowness provides protection for minority groups while at the same time it causes friction as well. Within these parameters, justice will happen as we close the value gap and expand the load-bearing capability of our judicial supply chains, and as our cybernetic feedback loops achieve stabilisation.

VII. CONCLUSION

The framers of the Constitution of India believed that 'justice' is not a fixed state but rather an

ongoing civic project. As a result, they recognized that the principles of constitutional morality would be tested in different areas of society, bureaucracy and politics - in fact, these areas would be more fragile than courtrooms. This understanding of justice remains unchanged seventy-five years later. Justice does not happen purely because there are written rights, or there is a system to provide for the dignity of individuals; it happens when institutions (such as the legislature), administrative systems and citizens alike are engaged in shared normative values, which promote equality, liberty and fraternity.

My analysis in this essay demonstrates that the justice deficit in India is primarily operational rather than conceptual. Courts have played a major role in developing and disseminating the moral vocabulary in the Constitution, and often act as catalysts for the advancement of civil rights. However, due to social attitudes which are 'inconsistent', limited enforcement capabilities of laws and uneven economic changes at the foundation of society, these moral principles cannot be fully recognised or enforced. As a result, there are repeated cycles of reform being articulated from a position of authority but resisted and absorbed in an inconsistent manner by the population and ultimately deferred to the future.

The future is to not pursue a weakened ambition of the Constitution but to have a larger base of meaningful engagement in applying that Constitution. Civic constitutionalism, Legislative Responsibilities and Institutionalised Instruction must now have a role in the law, not just jurisprudence. The proposed solutions would operationalise this vision by bringing together the moral aspiration of the above-mentioned instruments and transforming them into defined, trackable, flexible, and improvable obligations. There is still a path forward towards justice if India can harmonise law, society and administration. The Constitution is the language of the Republic; we must now have a fluent command of that language if we want to seek justice together. Justice will not be given; justice must be a collaborative effort between institutions and citizens.