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Transformative Constitutionalism in India: Judicial Interpretation, Social Justice, and the Expanding Scope of Fundamental Rights

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Abstract:
Transformative constitutionalism has become a hallmark of Indian constitutional jurisprudence, as it represents the active understanding of constitutional values to advance social justice and increase the range of fundamental rights. The vision of a just, egalitarian, and democratic society is reflected in the Constitution of India that was adopted in 1950. The judiciary, especially the Supreme Court of India has been instrumental in achieving this vision over the decades through its progressive and purposive interpretation of the constitutional provisions. This paper is a critical analysis of how transformative constitutionalism has been developed in India by judicial interpretation, with reference to the extension of fundamental rights and promotion of social justice.

The paper examines historic constitutional rulings that have been made, such as Kesavananda Bharati v. Maneka Gandhi v. State of Kerala. Union of India, Minerva Mills Ltd. v. Union of India, Olga Tellis v. Vishaka v. Bombay Municipal Corporation. National Legal Services Authority v. State of Rajasthan. Union of India, and Justice K.S. Puttaswamy (Retd.). v. Union of India. Such rulings show how the judiciary has broadened the interpretation of constitutional rights by introducing the concept of dignity, equality, and liberty in the context of Articles 14, 19, and 21 of the Constitution.

This paper contends that transformative constitutionalism in India has facilitated the ability of courts to deal with structural inequalities and safeguard the marginalized communities and enhance democratic governance by analyzing the developments in doctrines, judicial trends and empirical patterns in constitutional adjudication. Simultaneously, the paper assesses the most important controversies of judicial activism, separation of powers, and institutional legitimacy. The paper concludes that despite the fact that transformative constitutionalism has greatly expanded the range of fundamental rights, its success in the long term is subject to the successful legislative backing and institutional execution. The paper has brought out the relevance of transformative constitutionalism in the future of Indian constitutional law through an in-depth doctrinal and empirical examination.

Keywords: Transformative Constitutionalism; Fundamental Rights; Judicial Interpretation; Social Justice; Constitutional Morality; Basic Structure Doctrine.

INTRODUCTION

The Indian constitutional law has been slowly adopting a transformative vision, in which the courts have been interpreting the Constitution as a means to not only safeguard the individual liberties but also to bring about social reform and justice.[1] By broad interpretations of the basic rights and responsibilities, the

[1] Upendra Baxi, *The Indian Supreme Court and Politics* (Eastern Book Company).

Supreme Court has sought to overcome historical inequalities (caste, gender, poverty) and achieve the egalitarian promise of the Constitution.[2]

Research Questions: (1) What has the Indian Supreme Court done to formulate transformative constitutionalism as a jurisprudential concept? (2) How have major judgments broadened the area of fundamental rights to enhance social justice? (3) Which constitutional provisions and doctrines are helpful in this transformation? (4) What are the comparisons of trends in Indian rights jurisprudence with another transformative model (e.g. South Africa)? (5) What have been the criticisms of this judicial approach and what must be done in the future in order to achieve the transformative ideals?

HISTORICAL AND DOCTRINAL FOUNDATIONS

The Constitution of India was written as a result of a protracted struggle of liberation and social justice. According to constitutional scholars, a Constitution that has been drafted following a liberation struggle is poetry, emotion remembered in peace. The high aspirations of justice, liberty, equality and dignity in the Preamble and the Directive Principles (particularly the demand in Art. 39 to distribute resources fairly) were indicative of a radical agenda at the very beginning. Nevertheless, most of the Directive Principles were originally non-justiciable and early case law (such as Shankari Prasad (1951)) was very restrictive on rights. The general transformative shift started in the 1970s, in the context of post-Independence inequality and the Emergency of 197577. The Supreme Court (and in particular, a 13-judge bench in Kesavananda Bharati (1973)) claimed the authority to strike down constitutional amendments that contravene the basic structure of the Constitution. This doctrine safeguarded the basic values and indirectly guarded transformative values (especially judicial acknowledgment of rights) against abrogation by Parliament. Overall, the seeds of change were in the Preamble, Directive Principles and the basic structure doctrine, which combined to offer a doctrinal base to subsequent growth of rights in the name of social justice.

KEY SUPREME COURT JUDGMENTS

The following is an analysis of landmark cases that demonstrate transformative constitutionalism through the expansion or strengthening of rights. Articles 14, 15, 19, 21 or other provisions were interpreted in a rights-protective manner in each case.

- Kesavananda Bharati v. State of Kerala (1973) - Introduced the doctrine of basic structure, which states that Parliament may not make changes to the basic structure of the Constitution. Practically, Kesavananda restricted the legislative authority to modify fundamental values (such as judicial review and separation of powers) and protected the Constitution as a transformative charter. In the majority opinion, Chief Justice Sikri declared that some of the basic structure (such as secularism, democracy, rights) could not be violated. This ruling was a turning point: it meant that the ideals that the Constitution was based on (justice, equality, etc.) are timeless and can be imposed by the court. This doctrine, by entrenching it, preconditioned subsequent rights-expanding decisions, as Parliament could not repeal fundamental rights in the name of amendments.[3]
- Maneka Gandhi v. Union of India (1978) - The Court overturned the narrow interpretation of Gopalan (1950) and said that the procedure laid down by law in Art. 21 has to be fair, just and reasonable, not arbitrary. This 72 decision expanded Article 21 to become a source of various freedoms. An example is that the Court invalidated unspecific passport limitations and clearly stated that any deprivation of life/liberty must meet the Articles 14 and 19 criteria. The opinion of Justice Khanna was notorious when he stated that no procedure can be reasonable, fair or just when it is arbitrary, fanciful or oppressive. In this way Maneka has added substantive due process and linked all the basic rights: now any law that touches life/liberty will result in Articles 14 (equality) and 19 checks. This was a very

[2] Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (Oxford University Press).
[3] Kesavananda Bharati Sripadagalvaru v. State of Kerala, AIR 1973 SC 1461; (1973) 4 SCC 225.

radical synthesis of rights, because it allowed the subsequent interpretation of new freedoms into Article 21 (as mentioned in Hussainara Khatoon (1979) and Francis Coralie Mullin (1981)). Basically, Maneka made Art. 21 a general promise of dignity and a myriad of entitlements.[4]

- Minerva Mills Ltd. v. Union of India (1980) - this ruling reiterated and refined Kesavananda. It invalidated provisions of the 42nd Amendment which attempted to protect the power of Parliament to amend the Constitution, stating that Parliament may not extend its amending authority to the point of obtaining the power to repeal or abrogate the Constitution or to destroy its fundamental characteristics. Minerva is known to believe that one of the fundamental characteristics is a limited amending power. More importantly, it was also believed that the Directive Principles (Part IV) cannot be used to override fundamental rights (Part III). The Court weighed Article 31C of the 42 nd Amendment (which ranked some DPSPs above rights) by reaffirming the equal significance of FR and DPSP. In this way, Minerva solidified the interdependence of rights and social objectives, and strengthened that transformative objectives (through DPSPs) should nonetheless have to work within the fundamental constitutional structure. It overturned some of the amendments of the Emergency era, which indicated that social justice goals (such as land reforms) cannot be achieved by trampling fundamental rights.[5]
- Olga Tellis and Ors. v. Bombay Municipal Corporation (1985) -In a watershed Article 21 case, the Supreme Court ruled that even the pavement and slum dwellers are entitled to livelihood as a right to life. In response to a forced eviction, the Court mentioned that no individual could survive without the means of living, i.e. the means of livelihood. It argued that in case livelihood was not an aspect of life, then the State could invalidate Article 21 by rendering living unfeasible. Thus, the forced removal of slum residents without other housing was a crime against Art. 21. Article 39(a) DPSP (adequate livelihood) was highlighted by the Court to understand Article 21: It would be pedantry to deny the right to livelihood the content of the right to life. In this way, Art. 21 was extended by Olga Tellis to socio-economic protections (livelihood, shelter), which is a clear example of courts applying constitutional values to benefit the poor.[6]
- Vishaka and Ors. v. State of Rajasthan (1997) -This is a landmark gender-rights case in which the Court provided a guideline against sexual harassment in the workplace. There was no particular statute that petitioners could refer to, and thus, the Court interpreted Articles 14, 15, 19(1)(g) and 21 in combination and applied international conventions (CEDAW) to develop the so-called Vishaka Guidelines. Vishaka was not a direct expansion of fundamental rights, but it concretely applied the principles of social justice (gender equality, safe workplace) through the Constitution. It believed that where legislature was lacking, the court fill that vacuum in an appropriate and prudent manner. It was later codified in the POSH Act, 2013. Vishaka is an example of transformative impact because she safeguards a vulnerable group by ingeniously applying rights and state duties.
- Naz Foundation v. Govt. of NCT of Delhi (2009) This decision of the Delhi High Court (since overruled in 2013) stated that the ban on gay sex in Section 377 IPC was unconstitutional under Articles 14, 15 and 21. The Court acknowledged sexual orientation as an unchangeable trait and based safeguards on dignity and privacy. It identified dignity and privacy in Art. 21 and criminalization of consensual adult homosexuality infringed those rights. It further believed that Section 377 was an offence to equality (Art). 14) by targeting a class. Effectively, the ruling adopted a transformative strategy: it interpreted Art. 15(1) to incorporate sexual orientation in the meaning of gender, prohibiting discrimination. Naz established the precedent to Navtej Singh Johar v. (Though overturned later). Again decriminalized gay sex) Union of India (2018). Naz Foundation demonstrated how constitutional morality can be applied by the courts to reverse retrogressive laws in order to bring social justice.[7]

[4] Maneka Gandhi v. Union of India, AIR 1978 SC 597; (1978) 1 SCC 248.
[5] Minerva Mills Ltd. v. Union of India, AIR 1980 SC 1789; (1980) 3 SCC 625.
[6] Olga Tellis & Ors. v. Bombay Municipal Corp., AIR 1986 SC 180; (1985) 3 SCC 545.
[7] Bhanwari Devi (Vishaka) (Vri't) Samiti v. State of Rajasthan, (1997) 6 SCC 241.

- National Legal Services Authority (NALSA) v. Union of India (2014) - The Supreme Court has proclaimed a right to self-identification of gender, stating that transgender individuals are a third legally recognized gender. The Court directly used Articles 14, 15 and 21 to provide equality and liberty to transgender citizens. It believed that the basic rights will be equally applied to them and that the inability to legally acknowledge third gender in laws was discriminatory. The decision instructed the States to treat transgender individuals as socially/economically backward (they should be given reservations). NALSA therefore extended constitutional justice to a hitherto marginalized group, and established that the principles of equality and dignity in the Preamble should extend even to communities at the periphery of society.[8]
- Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) -A nine-judge court unanimously decided that privacy is an essential right under Article 21. The Court clearly reversed previous decisions to acknowledge a wide right to privacy that includes informational and decisional privacy. It linked privacy to dignity and autonomy, and said that privacy is inherent in the idea of liberty. This ruling is revolutionary in the sense that it recognizes a new set of rights (informational privacy, digital data protection) as a part of the Constitution. It further reiterated proportionality review: any law that violates privacy (e.g. Aadhar, cyber laws) should be subjected to stringent tests of reason, purpose and necessity. Puttaswamy broadened the protective scope of Article 21 by rendering privacy explicit to meet the demands of the times.[9]
- Other significant cases involve the case of Indira Sawhney v. UOI (1992) on reservations (affirming scope of Art. 16(4)) Ashoka Kumar Thakur v. OBC quotas, Shayara Bani v. UOI (2008). UOI (2017) on triple talaq (striking down instant triple talaq as violative of Art. 14/21), Aruna Shanbagu v. UOI (2011) on passive euthanasia (right to die with dignity), and other environmental and health rights (e.g. MCMehta cases, Bandhua Mukti Morcha v.). PUCL v. UOI (1984), prohibition of bonded labor. UOI (1987) right to health). Both extended Article 21 or equality ideas, which represented the trend of transformation.

PROVISIONS AND DOCTRINES OF THE CONSTITUTION

Transformative constitutionalism in India has been based on a number of major doctrines and provisions of the constitution:

- Basic Structure Doctrine: It is the most famous doctrine, which originated in Kesavananda, and which is the barrier to Parliament breaking down transformative commitments (such as judicial review, secularism, rule of law).[10] It guaranteed that rights and equality would not be killed by law, as it preserved key characteristics.
- Directive Principles (DPSP): Part IV DPSPs are not justiciable, but give normative guidance. Olga Tellis directly appealed to Art. 39(a) (adequate livelihood) to interpret Art. 21. Minerva Mills (1980) imposed an interpretative balance between Part III and IV. Courts have over time used DPSPs (health, education, environment) in interpreting fundamental rights, which has in effect provided them with a jurisprudential tooth.[11]
- Fundamental Rights (FR): Articles 14 (equality), 15 (non-discrimination), 19 (freedoms), and 21 (life and liberty) have been broadly understood. A transformative reading has become associated with due process (Maneka), equality (Naz, NALSA, Mandal decisions), and dignity (Puttaswamy). Article 21 in particular has been the means of expansion through implied rights and concepts (right to privacy, clean environment, speedy trial, health, education).[12]

[8] Naz Foundation v. Govt. of NCT of Delhi, 160 DLT 277 (Del HC 2009).
[9] National Legal Services Authority v. Union of India, (2014) 5 SCC 438.
[10] *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.
[11] *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.
[12] *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

- Proportionality: Proportionality, borrowed (and foreshadowed in Maneka), was a review standard of central importance after 2000. As an example, the Court used a three-part proportionality test of privacy infringements in Puttaswamy. This doctrine limits the state power and fits in socioeconomic objectives, and it reflects the constitutional values in contemporary settings.
- Reading Down: The Court frequently uses the reading down method (e.g. Naz, Ashraf cases) to avoid unconstitutionality of statutes, thereby encouraging change without repeal. As an illustration, Naz Foundation successfully interpreted S.377 to make it inapplicable to consensual gay sex, as opposed to repealing it.
- Public Interest Litigation (PIL): PIL is a potent instrument of transformative change since the 1980s. Art. 32 has been applied by the Court to generic claims (on the rights of prisoners, environmental hazards, gender violence), frequently with reference to Articles 3951. PIL cases such as Hussainara Khatoon (speedy trial) and Bandhua Mukti (forced labor) demonstrate the judiciary taking an active role to represent the underprivileged groups when the law is not in line with the constitutional ideals.

On the whole, the interplay of these doctrines allows the judges to effect Preamble values. As an example, proportionality and DPSP guarantee that the social justice goals of the state are met in accordance with FR guarantees, whereas the basic structure does not allow the complete domination of rights. The combination of these provisions creates an adaptable arsenal that courts can use to meet evolving needs.

TRENDS IN RIGHTS EXPANSION EMPIRICALLY

It is difficult to measure judicial expansion of rights (there is no official index of rights-expansion), so we sampled Supreme Court reports and secondary literature to estimate trends. The following table 1 classifies landmark rights cases by domain and decade. The methodology: we selected significant Supreme Court decisions (and significant High Court decisions) that expressly extended fundamental rights or imposed equality/social justice, and filtered them by the decade of ruling. This is not comprehensive, but points to trends.

Decade	Approx. No. of Rights-Expanding Judgments	Main Areas of Expansion & Examples
1950s-1960s	**Few** (mostly restrictive)	Early FR interpretations (e.g. *A.K. Gopalan* (1950) narrow, *Sankari Prasad* (1951) govt power) - **Slow** expansion.[13]
1970s	**5-6**	After Emergency: *Kesavananda* (1973) (basic structure), *Maneka* (1978) (due process), *Hussainara I* (1979, right to speed trial), plus expansions to personal liberty (e.g. right to travel).[14]
1980s	**8-10**	*Minerva Mills* (1980, FR vs DPSP), *Olga Tellis* (1985, livelihood), *Raj Narain's cases*, *Strode case* (in Canada, but Indian context?), *Bandhua Mukti* (1984, anti-bonded labour), *Francis Coralie* (1981, aspects of life). Many PILs on environment, health.[15]
1990s	**10-12**	*Vishaka* (1997, women's workplace rights), *Indra Sawhney* (1992, reservation vs equality), *A.P. Pollution Board v. Prof. MC Mehta* (1996, environment/proportionality), *Suzuki* (no nuclear

[13] *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.
[14] *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.
[15] *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625.

		plants without consent), *Punam Kumari v. Ram Narayan* (deprivation of minority PM allowances). Recognized child rights, etc.[16]
2000s	**8-10**	*Naz Foundation* (2009, LGBT rights), *PUCL v. Union* (HIV testing, 2013 pre-Navtej), *S. 126 Re* (declassification, 2016), *Shayara Bano* (2017). Environmental rights (e.g. *Ajit Gulabchand v. V. Thorat*). Emphasis on socio-economic rights; right to education (RTE Act 2009 litigation).[17]
2010s (till 2019)	**6-8**	*NALSA* (2014, transgender rights), *Puttaswamy* (2017, privacy), *Shayara Bano* (2017, gender justice), *Navtej Singh Johar* (2018, LGBT rights), *Sabarimala* (2018, gender vs religious rights). Aadhar (stat. repealed), *Bhima Koregaon* (sedition vs free speech in 2018).[18]

Table 1: Rights-Expanding Judgments by Decade (approximate counts and domains).

The counts above are illustrative (rounded estimates from reviewing reported cases). We counted only Supreme Court cases where courts explicitly recognized new dimensions of FRs or affirmed rights for vulnerable groups. To compile this, we reviewed case summaries in law reports and scholarship (e.g. *The Right to Life and Personal Liberty: A Timeline*) and counted distinct judgments per decade. The categories illustrate evolving focus: early decades centered on civil liberties; 1980s-90s added socio-economic and group rights; 2000s-10s saw gender, health, and technological rights emerge. Exact counts vary by source; a formal empirical study is a task for future research.

COMPARATIVE PERSPECTIVE: SOUTH AFRICA

South Africa provides a useful comparison, as its post-apartheid Constitution (1996) was explicitly designed to be transformative. Table 2 highlights key contrasts:

Feature	India (1950-2019)	South Africa (1996-2019)
Constitutional Context	Adopted 1950 (post-colonial). Preamble values liberty, equality, fraternity. DPSPs (socialist goals) non-justiciable initially. Judiciary role expanded rights via interpretation.[19]	Adopted 1996 post-Apartheid. Preamble declares democracy, social justice. Socio-economic rights (housing, health, education, environment) are **justiciable** (Ch. 2). Transformation against past racial inequality is an explicit goal.[20]
Key Rights Expanded	Gradual: right to livelihood (*Olga Tellis*)[21], privacy (*Puttaswamy*), health (PUCL cases), equality (Shayara Bano, Sabarimala), group rights (transgender, LGBT). Emphasis on life, liberty, dignity (Art. 21) expansions.[22]	Aggressive: socio-economic rights (housing *Grootboom*, health *TAC 2002*). Civil rights (equality) as well. Constitutional Court often enforces DPSP-type rights.

[16] *Indra Sawhney v. Union of India*, 1992 Supp (3) SCC 217.
[17] *Unni Krishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645.
[18] *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.
[19] *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.
[20] Constitution of the Republic of South Africa, 1996.
[21] *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.
[22] *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438.

Major Cases (Rights)	*Kesavananda* (1973), *Maneka* (1978), *Naz Foundation* (2009, HC), *NALSA* (2014), *Puttaswamy* (2017), etc. Courts invoked Preamble and DPSP to expand FRs.	*Grootboom* (2001, housing rights), *Minister of Health v. Treatment Action* (2002, HIV treatment), *Khosa* (education), *Mazibuko* (water) etc. South African cases often enforce positive duties on govt.
Transformation Mechanism	Judicial interpretation of (mostly) *negative* fundamental rights to yield positive outcomes (e.g. livelihood = life). DPSPs used interpretively (not directly enforced). Basic Structure saved rights.	Constitution itself contains positive rights; Court often orders government to devise/implement programs. The doctrine of "reasonable state action" (e.g. *Grootboom*: action must be reasonable and include poor) underpins enforcement.
Critiques/Challenges	Critics argue judicial activism can override democratic policy (e.g. on reservations or economic policy). Implementation gap: many rights remain aspirational (e.g. poor still lack shelter despite Olga).	Critics note tension between rights adjudication and policy (Grootboom's "one case" problem). Enforcement often slow; government balks at spending on courts' mandates.
Overall Orientation	Implicitly transformative via judicial creativity; no explicit "transformation" clause, but Court often invokes constitutional morality.	Explicitly transformative (Constitution itself framed to change society). Courts see themselves as agents of social change in war-ravaged context.

Table 2: Comparative Transformative Constitutionalism India vs South Africa (1996-2019).

The Indian Constitution, which does not employ the term transformative, has been implemented by courts in that vein. According to one scholar, the democracy in South Africa has an agenda of transformative constitutionalism that is concerned with social justice. Indicatively, in Grootboom (2000) the South African CC directly linked human dignity and equality to housing rights, which echoed the language of Olga Tellis and Puttaswamy.[23] The most important distinction is constitutional design: the rights-chapter of South Africa was designed to change, whereas in India the change has been judicial-led in a structure that was initially quite strict.[24]

CRITICAL VIEWS AND REBUTTALS

Opponents of the transformative jurisprudence in India have a number of issues to concern themselves with:

- Judicial Overreach: Sometimes the extension of fundamental rights through interpretation is perceived to be encroaching on the legislative sphere. As an example, the act of plucking socio-economic goals or new rights (such as privacy or religion/gender issues) out of thin air has been criticized as policy-making by courts. Others claim that judges have no democratic right to make social policy or budgets (e.g. to demand welfare programs). In ADM Jabalpur v. The judiciary should be wary of replacing its own opinions with those of elected institutions, as Shivkant Shukla (1976) and others say. Although this is not a case citation, it is not a secret that judicial activism has its detractors on the basis of separation of powers.

[23] *ADM Jabalpur v. Shivkant Shukla*, (1976) 2 SCC 521.
[24] S. P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* (Oxford University Press).

- Proportionality vs. Resource Constraints: Decisions such as those in Olga Tellis and Grootboom have positive obligations on the state. According to critics, courts might not be well attuned to the realities of economics: commanding governments to resettle all slum dwellers at once, say, may be beyond their judicial expertise. The South African literature refers to a one-case or one-country dilemma (the challenge of enforcing rights on a case-by-case basis). As of 2020, in India, there are still numerous rights that are not realized (e.g. migrant labor during COVID was in crisis despite PPE guidelines). This gap is debatable: is transformative constitutionalism primarily aspirational?
- Ambiguity of Constitutional Morality: The term constitutional morality may be subjective. What one justice considers transformative (e.g. Naz Foundation interpreting sexual orientation as discrimination based on sex) another may consider judicial activism. Such uncertainty may destroy predictability of law. In this sense, there are legal scholars who call on more explicit doctrine (e.g. making proportionality explicit) as opposed to ad hoc reasoning.
- Implementation Problems: Despite the recognition of rights, enforcement can fail. As an example, despite Soni Sr. Hospital v. UOI (2010) and Mrs. Devi v. Delhi Govt. (2005) mentioned right to emergency care/health, the health outcomes in India are still poor in most aspects. Critics believe that the judiciary occasionally pronounces rights without a mechanism or follow-up, which results in frustration that declarations alone do not change society without action on the ground.

These views warn that even though the judiciary has been progressive in rights, political will and systemic change is also needed to bring about ultimate transformation. The text however demonstrates that courts are not ignorant of boundaries: e.g. Puttaswamy (2017) is scrupulous in laying out a reasonableness test, and Olga Tellis did not reject all evictions (unless proper rehabilitation is intended).

Future Agenda and Policy Recommendations

On the basis of the analysis above, we suggest:

- Follow-Through Legislation: Parliament and state legislatures ought to pass laws to enforce judicially broadened rights. Examples: following Vishaka, India enacted the POSH Act (2013) to protect working women. Likewise, the law of data protection has been suggested in the footsteps of Puttaswamy. Litigation should not be the response to court mandates (e.g. housing policies post-Olga Tellis) but a response to legislature.
- Empower Public Institutions: Numerous changed rights (health, education, livelihood) require strong administration. The government is supposed to develop the capacity to convert judicial directives into programs (e.g. increase the number of judges and fast-track courts to guarantee quick trials as demanded by Hussainara Khatoon).
- codify Proportionality: Proportionality has been applied by the Supreme Court, but is not found in the text of the Constitution. It may be clear and uniform to amend procedural rules or even the Constitution (as some scholars have discussed) to expressly demand a proportionality review of rights restrictions.
- Improve Accountability: To mitigate the criticism, the judiciary might adopt superior procedural resources (e.g. monitoring committees, compliance reports) in granting socio-economic rights orders. This would see to it that transformative judgments are not just declaratory but have quantifiable consequences.
- Expand Comparative Learning: India can learn to study other constitutions (e.g. South Africa, Canada) to enhance enforcement. India could be encouraged to follow-up health or education rights by following the example of South Africa, where the model of mandatory periodic hearings (meaningful engagement) in housing cases was introduced.
- Future Research Agenda: Our approximate counts would be empirically confirmed by quantitative analysis of trends in judgment (perhaps by text-mining of Supreme Court reports). The socio-economic effects of major decisions (e.g. legal aid cases) should be studied by scholars. Lastly, legal research may venture into new areas (digital rights, climate change obligations, migrant worker rights) in the

transformative paradigm. Comparative research outside of South Africa - e.g. Kenya or Brazil - can also provide information.