



Law, Justice, and the Interpretive Gap in Indian Constitutional Adjudication

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Abstract

This paper examines the structural gap between legal validity and substantive justice within the Indian constitutional framework, focusing on landmark Supreme Court decisions as interpretive sites where justice is made or unmade. The study employs doctrinal and analytical legal research methodology, engaging in close reading of constitutional provisions and judicial decisions as interpretive texts rather than merely examining their outcomes. Cases were selected based on constitutional significance, demonstrable tension between procedural legality and substantive justice, and longitudinal jurisprudential influence. Key findings reveal that the gap between law and justice widens under three structural conditions: linguistic indeterminacy in constitutional language, institutional constraints during political crises, and social and structural inequality that renders formal rights practically inaccessible. The comparative analysis of *ADM Jabalpur v. Shivkant Shukla* (1976) and *Maneka Gandhi v. Union of India* (1978) demonstrates that the same constitutional text, unmodified, produced diametrically opposed outcomes within two years – a difference attributable solely to judicial interpretive philosophy. The paper concludes that law contains no internal mechanism guaranteeing just outcomes; the guarantee, where it exists, lies in the quality of interpretation and the transparency of interpretive reasoning. Practical implications include the need for constitutional reform that acknowledges interpretive contingency, demands greater judicial accountability, and addresses structural inequalities – particularly India's undertrial crisis, in which 77% of prisoners are unconvinced that render formal rights meaningless for the majority of citizens.

Keywords: constitutional interpretation; substantive justice; Indian constitutional law; judicial philosophy; men's rea; fundamental rights; ADM Jabalpur; rule of law

Introduction:

A judgment can be entirely legal and entirely unjust at the same time. This is not a radical claim. It is the quiet admission embedded in every dissent, every overruled precedent, every moment a court

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revisits its own prior reasoning and concludes that something went wrong. What went wrong, this paper argues, was not always the law itself – it was the interpretive choice made by the people who held it.

As of 2024, over 5 crore cases remain pending across all levels of Indian courts, with nearly 2 crore new matters filed annually (National Judicial Data Grid [NJDG], 2024). That figure has become a cliché – cited and then moved past. This paper refuses to move past it. The backlog is not merely an administrative failure; it is a philosophically significant fact: the law is systematically unable to deliver what it promises, namely timely and fair resolution. If the law cannot deliver its promise on time, we must ask a harder question: can it deliver it at all, even when it does arrive?

The Indian constitutional framework offers an extraordinarily rich site for examining this question. The judiciary has not merely applied law – it has authored it, dismantled it, and reconstructed it across decades. The evolution of Article 21 of the Constitution of India from a narrow procedural guarantee in *A.K. Gopalan v. State of Madras* (1950) to a sweeping protection of dignity, privacy, and livelihood is not the story of a changing text. The text did not change. What changed was the interpretation. And interpretation, this paper argues, is where justice is made or unmade.

The contrast between *ADM Jabalpur v. Shivkant Shukla* (1976) and *Maneka Gandhi v. Union of India* (1978) is this paper's central jurisprudential exhibit. In the first, the Supreme Court held that during the Emergency the right to life could be suspended legally. In the second, decided barely two years later by a differently minded bench, the Court declared that any restriction on personal liberty must be 'fair, just and reasonable.' The Constitution had not been amended between these two decisions. The gap between them is not a gap in the text – it is a gap in judicial philosophy, and that gap is where justice lives or dies.

The research problem concerns the structural conditions under which Indian constitutional law produces, and fails to produce, substantive justice. The study's aim is to theorise the relationship between legal validity and substantive justice and to examine how judicial interpretation mediates that relationship. Three research questions animate the inquiry:

1. Does the consistent application of law automatically produce justice within the Indian constitutional framework, and if not, what does that reveal about the nature of legal legitimacy?
2. How does judicial interpretation function as the primary site of justice's construction, and under what conditions does that interpretive process fail the individuals it governs?
3. Can the gap between procedural legality and substantive justice be theorised coherently, and is such theorisation useful for constitutional reform?

This inquiry is necessary because criminal and civil justice systems in India continue to rely upon procedural frameworks that determinism – whether structural, institutional, or linguistic – exposes as insufficient guarantors of substantive rights. Prior scholarship has examined either the philosophical dimensions of judicial interpretation or the doctrinal evolution of fundamental rights, but rarely in sustained dialogue. This paper bridges that gap.

Literature Review / Theoretical Overview:

The Linguistics of Legal Indeterminacy

H.L.A. Hart's (1961) concept of the 'penumbra of uncertainty' surrounding any legal rule provides the foundational theoretical lens. Every rule has a core of cases clearly falling within it and a periphery where the text offers no unambiguous answer. In those penumbral cases, the judge does not apply the law – the judge makes it. Hart's account, however, requires a qualification his readers sometimes miss: he did not argue that morality is irrelevant to law, but that legal validity and moral validity are conceptually distinct. A rule may be legally valid and morally atrocious. This distinction is not a technicality; it is the philosophical ground on which constitutional crises are fought (Hart, 1961).

Ronald Dworkin (1986) offered the most influential response through his theory of law as integrity. Judges, Dworkin argued, are not gap-fillers inventing answers when the text runs out; they are participants in an ongoing narrative, like authors adding chapters to a novel many writers have begun. Each judge must make the next chapter fit what came before, while guiding the story toward its best moral conclusion. The Supreme Court's unanimous decision in *K.S. Puttaswamy v. Union of India* (2017) – recognising a constitutional right to privacy despite the word 'privacy' never appearing in the text – is a near-perfect illustration of Dworkinian integrity in action. Yet Dworkin's theory carries an internal difficulty: who decides what counts as the 'best moral reading'? In practice, the judge does. And judges are not neutral (Dworkin, 1986).

Expanding the Frame: Fuller, Rawls, and Sen

Lon Fuller (1964) argued that law possesses an 'internal morality' – procedural requirements of generality, promulgation, clarity, and consistency without which law loses its claim to legitimacy. India's undertrial crisis, in which a person can spend five years in detention for a crime carrying a three-year maximum sentence, fails Fuller's test: the legal system has ceased to function as a guide to human behaviour, undermining law's internal morality while preserving its external forms.

John Rawls (1971) provides a complementary distributive lens. Justice, for Rawls, is the property of institutions producing outcomes that people behind a veil of ignorance – without knowledge of their

social position — could regard as fair. Applied to India, this criterion is demanding: constitutional rights practically inaccessible to 80% of the population fail the Rawlsian test of institutional fairness.

Amartya Sen's (2009) capability approach shifts the inquiry from rights as formal entitlements to rights as real freedoms — the actual ability of individuals to do and be what they have reason to value. A right to legal representation that cannot be exercised because no legal aid lawyer is available, or because proceedings are conducted in a language the defendant does not speak, is a formal fact with no substantive content. Sen's framework makes visible what Rawlsian proceduralism and Dworkinian integrity can both obscure: that the gap between law and justice is often produced by institutional inequality that law itself is complicit in maintaining.

Interpretive Power and Judicial Accountability

Upendra Baxi (1982) provides the most incisive Indian-specific critique. When law focuses exclusively on its internal logic of procedural compliance, it risks becoming a system of 'organised irresponsibility' — an apparatus that protects its own processes while remaining indifferent to the human consequences of those processes. This warning resonates with particular force in the context of India's undertrial crisis and the Emergency-era jurisprudence examined in this paper.

A significant gap in existing scholarship is the tendency to examine judicial philosophy in isolation from structural inequality. Philosophical accounts of interpretive theory rarely engage with empirical data on access to justice; doctrinal analyses of landmark cases rarely situate those cases within the socioeconomic conditions that determine who can and cannot exercise the rights those cases recognise. This paper seeks to address that gap by holding philosophical analysis and structural critique in sustained dialogue.

Research Methodology:

This study employs doctrinal and analytical legal research. The doctrinal component involves close reading of constitutional provisions, statutes, and judicial decisions not merely for their outcomes but for their reasoning. The analytical component treats judicial decisions as interpretive texts: arguments that make choices, reflect values, and construct meaning rather than discover it.

Cases were selected according to three explicit criteria. First, constitutional significance: each selected judgment materially shaped Article 21 jurisprudence or the broader doctrine of fundamental rights. Second, demonstrable tension: each case contains an observable gap between procedural legality and substantive justice, making the central research question legible in concrete form. Third, longitudinal influence: each decision has had lasting effects on subsequent constitutional interpretation, ensuring the analysis is jurisprudentially relevant to the present.

The study acknowledges the risk of confirmation bias inherent in case selection. To address this, it engages with judgments on multiple sides of interpretive philosophy – including decisions that prioritise state authority and procedural restraint alongside those that expand individual rights. ADM Jabalpur and Maneka Gandhi are paired precisely because they embody opposite interpretive philosophies applied to the same constitutional text within two years of each other. That pairing is the paper's methodological engine.

All sources are publicly available, including case law on Indian Kanoon, academic literature, government reports, and constitutional commentary. No proprietary data sources are employed. Empirical claims are sourced and dated explicitly. The study acknowledges three limitations: its reliance on published case law rather than litigant experience; the contested nature of the concept of justice across moral frameworks; and the author's own interpretive choices in case selection, which are made transparent through explicit articulation of selection criteria.

Research Results:

The analysis yields four principal findings, presented below in order of their structural significance.

Finding 1: The same constitutional text produced diametrically opposed outcomes within two years, confirming that interpretation – not text – is the primary determinant of constitutional justice

In ADM Jabalpur v. Shivkant Shukla (1976) 2 SCC 521, four of five Supreme Court judges held that courts lacked jurisdiction to examine the lawfulness of detention during the Emergency, suspending habeas corpus in law if not in name. In Maneka Gandhi v. Union of India (1978) 1 SCC 248, without any constitutional amendment, the Court held that any procedure depriving a person of life or liberty must be fair, just, and reasonable – and that Articles 14, 19, and 21 must be read as an integrated 'golden triangle.' Not a comma of the Constitution changed between these decisions. The gap is purely interpretive.

Finding 2: Justice H.R. Khanna's dissent in ADM Jabalpur establishes that alternative interpretations were available within the same constitutional moment, making the majority's outcome a choice, not an inevitability

Khanna J. held that the right to life and personal liberty was not a gift of the Constitution but a fundamental condition of human existence predating any constitutional instrument, which no Presidential Order could abolish. His dissent cost him the Chief Justiceship, and is now regarded as one of the finest moments in Indian constitutional adjudication. Methodologically, it proves that the

Emergency did not make the majority's interpretation inevitable – it made it possible. What determined the outcome was interpretive philosophy, not constitutional necessity.

Finding 3: India's undertrial crisis constitutes a structural failure that no interpretive development alone can remedy, exposing the limits of judicial philosophy as a vehicle for justice

According to the India Justice Report (2022), approximately 77% of India's prison population consists of undertrial prisoners – individuals not convicted of any crime. The National Crime Records Bureau (2022) reports that a substantial proportion have been in custody for periods exceeding the maximum sentence for the offence with which they are charged. Legal processes have been followed in each case. The result is that persons legally presumed innocent has served more time in custody than a convicted person would have. This is Shadow Justice: complete procedural compliance producing systematic human suffering.

Finding 4: The gap between law and justice widens under three identifiable, structural conditions, not randomly

These conditions are: (i) linguistic indeterminacy, where constitutional language is insufficiently determinate to resolve the dispute and the judge's philosophy fills the gap; (ii) institutional constraints, where political pressure or crisis narrows the interpretive space available to courts; and (iii) social and structural inequality, where the formal existence of a right is systematically uncoupled from citizens' ability to exercise it. These three conditions are not exceptional – they are endemic features of the Indian constitutional system that require structural, not merely interpretive, reform.

Discussion:

These findings, taken together, reveal a constitutional system in which the relationship between law and justice is contingent rather than guaranteed – dependent on who is interpreting, under what conditions, and with what access to rights is practically available to the citizen standing before the court.

The ADM Jabalpur–Maneka Gandhi pairing is the paper's most analytically productive exhibit. Dworkin's (1986) theory of law as integrity accounts for Maneka Gandhi: the Bhagwati bench re-read the entire constitutional narrative and held that the 'golden triangle' of Articles 14, 19, and 21 was not merely consistent with the constitutional text but required by it. Yet Hart's (1961) framework better explains ADM Jabalpur: the majority treated legal validity and moral validity as conceptually separate and found the Presidential Order legally valid – therefore unassailable. Both readings were constitutionally plausible. What differentiated them was not the text but the judicial philosophy of the individuals who read it, and the political temperature of the institutional moment in which they read

it. Khanna J.'s dissent illuminates what Baxi (1982) calls organised irresponsibility in reverse: it is the anatomy of organised responsibility – a judge accepting institutional cost in order to maintain fidelity to a principle the Constitution required even when the majority could not see it. The dissent is not merely a historical curiosity. It is methodological evidence that interpretive alternatives are always available, that outcomes are choices, and that the language of judicial inevitability is almost always a choice masquerading as necessity.

The undertrial crisis presents a different analytical challenge. Sen's (2009) capability approach makes visible what Dworkinian integrity and Rawlsian fairness both risk obscuring: that the gap between law and justice is produced not by interpretive failure alone but by institutional inequality. The Supreme Court's development of Article 21 has been jurisprudentially transformative. It has not, however, materially reduced the proportion of unconvinced persons in India's prisons (India Justice Report, 2022). This suggests that interpretive philosophy, however sophisticated, cannot substitute for structural reform of bail, legal aid, and institutional capacity.

Fuller's (1964) internal morality of law provides the normative framework within which this tension is most clearly legible. A legal system that routinely detains the innocent for longer than it imprisons the convicted has failed one of law's most basic functions: to guide and constrain state power in ways that human beings can understand and predict. The form is preserved; the legitimacy has been forfeited.

The paper acknowledges limitations in its own analysis. First, the reliance on published case law means the study does not capture the lived experience of litigants – those for whom jurisprudential developments are abstractions and custody is reality. Second, the concept of justice remains contested across moral frameworks; what appears as substantive justice in one tradition may appear as judicial activism in another. The explicit articulation of a working definition – outcomes that protect human dignity, guarantee meaningful liberty, ensure non-arbitrary treatment, and enable real access to rights – is an attempt to make this paper's terms of engagement transparent, not to foreclose the wider debate.

Conclusion and Implications:

This paper set out to examine the structural conditions under which Indian constitutional law produces and fails to produce substantive justice. Its central claim that law contains no internal mechanism guaranteeing just outcomes, and that the guarantee, where it exists, lies in the quality of interpretation is confirmed by the analysis of ADM Jabalpur, Maneka Gandhi, Puttaswamy, and the undertrial data.

The significance of this inquiry extends beyond legal history. It speaks directly to the legitimacy of constitutional institutions. The legitimacy of a legal system does not rest on its formal coherence alone; it rests on the collective belief of the people it governs that its processes are, in the end, oriented toward outcomes they can recognise as fair. When that belief erodes in every long custody queue, every bail

hearing denied on procedural grounds, every dissent overruled and then vindicated two years later, the law has not merely failed justice. It has failed itself. The theoretical contribution of this paper is threefold. First, it demonstrates that the three-condition framework – linguistic indeterminacy, institutional constraint, and structural inequality – provides a coherent account of when and why the law-justice gap widens that is both philosophically grounded and empirically traceable in Indian constitutional history. Second, it establishes that Khanna J.'s dissent in ADM Jabalpur is not merely a moral monument but methodological evidence that interpretive alternatives are always present, making judicial outcomes choices rather than necessities. Third, it integrates Sen's capability approach with doctrinal constitutional analysis in a way that existing scholarship has not fully explored, revealing that interpretive sophistication and structural reform are not alternatives but complements. The practical implications are three. Constitutional reform efforts should acknowledge interpretive contingency and build accountability mechanisms – including transparency in judicial reasoning – into institutional design rather than relying on the good faith of individual benches. Structural inequalities in access to bail, legal representation, and linguistically accessible proceedings must be treated as constitutional failures, not merely administrative shortfalls. Finally, the undertrial crisis must be recognised as a failure of all three dimensions of justice simultaneously – procedural, substantive, and distributive – and addressed accordingly. Justice is not the destination the law is travelling to. It is the quality of the journey, and the question of who gets left behind.

References:

- A.K. Gopalan v. State of Madras, AIR 1950 SC 27.
- ADM Jabalpur v. Shivkant Shukla, (1976) 2 SCC 521.
- Baxi, U. (1982). The crisis of the Indian legal system. Vikas Publishing.
- Dworkin, R. (1986). Law's empire. Harvard University Press.
- Fuller, L. L. (1964). The morality of law. Yale University Press.
- Hart, H. L. A. (1961). The concept of law. Oxford University Press.
- India Justice Report. (2022). Tata Trusts. <https://indiajusticereport.org>
- K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.
- Maneka Gandhi v. Union of India, (1978) 1 SCC 248.
- National Crime Records Bureau. (2022). Prison statistics India 2022. Ministry of Home Affairs, Government of India.
- National Judicial Data Grid. (2024). Cumulative pendency data across district, high court, and Supreme Court levels. <https://njdg.ecourts.gov.in>
- Rawls, J. (1971). A theory of justice. Harvard University Press.
- Sen, A. (2009). The idea of justice. Harvard U