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ACCESS TO JUSTICE: A REGRESSION IN THE DEVELOPMENT JOURNEY OF INDIA?

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Abstract

This chapter interrogates the fundamental contradiction between India's celebrated economic advancement and its regressive justice access landscape, particularly for marginalized communities. Through methodical analysis of empirical evidence from authoritative legal and socioeconomic research, this study demonstrates a measurable deterioration in justice accessibility despite constitutional guarantees and GDP growth. The analysis reveals how the judicial system's unprecedented case backlog - exceeding 44 million cases in district courts alone - combined with institutional deficiencies and resource constraints has created virtually insurmountable barriers for vulnerable populations. The research employs an intersectional framework to examine how gender, caste, religion, and economic status interact to produce unique exclusionary effects that conventional legal analyses often overlook. By integrating development theory with jurisprudential analysis, this chapter establishes that equitable justice access represents not merely a sectoral concern but a fundamental development indicator, arguing that when significant portions of the population remain effectively excluded from judicial remedies, it constitutes a profound regression in India's development journey. The analysis concludes by proposing evidence-based structural reforms to reconcile the widening disjuncture between economic growth metrics and justice accessibility, thus reclaiming a more comprehensive development narrative.

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Keywords: Access to justice, development regression, marginalized communities, judicial backlog, legal aid, intersectionality

1. Introduction: Justice Access as a Development Imperative

The relationship between justice and development lies at the heart of any meaningful conceptualization of social progress. As Amartya Sen articulated in his capabilities approach, development must be understood as the expansion of substantive freedoms that people enjoy, with access to justice constituting a crucial capability that enables the exercise of other rights and freedoms.[1] When a significant portion of the population cannot effectively access justice, it represents not merely a failure of the legal system but a fundamental regression in the development journey.

India's rise as an economic powerhouse presents a striking paradox: while macroeconomic indicators project an image of advancement, the justice system appears to be moving in reverse gear for millions of citizens. This chapter examines this disconnect by asking: Has access to justice regressed rather than progressed despite India's economic advancement, and if so, what are the implications for India's development narrative?

This inquiry is particularly salient given India's commitment to Sustainable Development Goal 16, which emphasizes 'access to justice for all' as a fundamental development objective.[2] By examining how justice access has evolved alongside economic growth, this research contributes to a more nuanced understanding of development that transcends GDP metrics to encompass institutional quality and rights protection.

The central argument of this chapter is that access to justice has indeed regressed in India, particularly for marginalized communities, despite constitutional guarantees and economic advancement. This regression manifests not only in the growing judicial backlog but also in the widening gap between legal promises and lived realities for the most vulnerable. The chapter establishes that this regression stems from structural failures in the justice system, intersectional barriers faced by marginalized communities, and inadequate implementation of legal aid frameworks.

The methodology employed in this chapter is multi-disciplinary, drawing on empirical legal studies, development economics, and sociological scholarship. Primary sources include judgments of the Supreme Court and High Courts, legislative frameworks, governmental

[1]A Sen, Development as Freedom (Oxford University Press 1999).
[2]United Nations, 'Sustainable Development Goal 16' (2015) <https://sdgs.un.org/goals/goal16> accessed 10 May 2025.

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reports, and official statistics from bodies including the National Judicial Data Grid, the National Crime Records Bureau, and the National Legal Services Authority. These are supplemented by secondary scholarship from Indian and international legal academics, as well as empirical research from think tanks including Tata Trusts, the Centre for Policy Research, and the Centre for Social Justice. The intersectional framework employed allows for a nuanced examination of how different axes of marginalization interact within the justice system, moving beyond single-variable analyses to capture the complex reality of multiple, overlapping forms of exclusion.

The chapter proceeds as follows: Section 2 examines the empirical evidence of judicial system crisis, focusing on the backlog problem, structural deficiencies, and their disproportionate impact on marginalized communities. Section 3 applies intersectionality theory to examine how gender, caste, and religious identity create compounding barriers to justice access. Section 4 analyses the legal aid system, contrasting its progressive constitutional vision with persistent implementation failures. Section 5 proposes a multi-dimensional reform agenda to address the regression documented in preceding sections. Section 6 offers concluding reflections on the implications of justice regression for India's development narrative and the imperative of systemic transformation.

The theoretical framework employed in this analysis draws on intersectionality theory, originally articulated by Kimberlé Crenshaw[3] and subsequently applied to the Indian context by scholars examining how multiple axes of marginalization - including gender, caste, religion, and class - create unique patterns of exclusion from justice systems.[4] This framework allows for a more nuanced understanding of how different dimensions of marginalization interact to create barriers that cannot be understood by examining any single factor in isolation.

By positioning access to justice as a central development metric rather than a peripheral concern, this chapter challenges narrow economic conceptualizations of development and argues for a more holistic approach that centers rights protection and institutional effectiveness. Through this lens, the current state of justice access in India represents not merely a sectoral failing but a fundamental regression in the country's development trajectory.

[3]K Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color' (1991) 43(6) Stanford Law Review 1241.

[4]J Gopika and R Verma, 'Intersectional Vulnerabilities in Contemporary India: Theoretical Frameworks and Empirical Evidence' (2023) 45(2) Contributions to Indian Sociology 236.

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2. The Judicial System in Crisis: Empirical Evidence of Regression

2.1 The Mounting Backlog: Quantifying the Crisis

The Indian judiciary faces an unprecedented crisis of case pendency, with statistics revealing a system unable to meet the demands placed upon it. As of 2024, over 44 million cases remain pending in district courts alone, with nearly 12 million cases pending for more than three years.[5] The Supreme Court had 80,765 pending cases as of December 2023, representing a 35% increase over five years.[6] In High Courts, the collective backlog exceeded 62 million cases by January 2024.[7]

This exponential growth in pendency has occurred despite increases in judicial strength. Between 2008 and 2024, while the number of judges at the Supreme Court increased from 25 to 34 and at High Courts from 594 to 783, case pendency nearly doubled from approximately 3.8 million to 6.3 million cases.[8] This indicates that merely increasing judge strength without addressing systemic inefficiencies cannot resolve the pendency crisis.

The temporal dimension of this crisis is particularly concerning. According to a comprehensive analysis by the Law Commission of India, at current disposal rates, eliminating the backlog would require decades.[9] The geographical distribution of pendency further reveals significant regional disparities, with states like Uttar Pradesh and Bihar facing particularly severe backlogs, while some northeastern states demonstrate more manageable caseloads.[10]

These statistics represent more than administrative inefficiency - they reflect the lived reality of millions whose lives remain suspended in legal limbo, often for generations. The Supreme Court itself has acknowledged this crisis, observing in *Justice Sunanda Bhandare Foundation v Union of India* that 'access to justice will be a distant dream if the justice delivery system becomes dysfunctional because of uncontrollable docket explosion.'[11]

2.2 Structural Deficiencies and Institutional Failures

The judicial capacity deficit represents a primary structural failure undermining justice access. With approximately 20 judges per million population, India falls far below the Law

[5]National Judicial Data Grid, 'National Judicial Data Grid Statistics' (March 2024) <https://njdg.ecourts.gov.in/njdgnew/index.php> accessed 12 May 2025.
[6]Supreme Court of India, 'Annual Report 2023-2024' (2024) 37.
[7]Department of Justice, 'Judicial Statistics 2024' (Ministry of Law and Justice, Government of India 2024) 42.
[8]A Thiruvengadam, 'Judicial Performance in Comparative Perspective: A Study of Indian Judicial Administration 2000-2020' (2023) 57(2) Journal of the Indian Law Institute 218.
[9]Law Commission of India, '245th Report: Arrears and Backlog: Creating Additional Judicial (Wo)manpower' (2014) <http://lawcommissionofindia.nic.in/reports/report_no.245.pdf> accessed 20 May 2025.
[10]Tata Trusts, 'India Justice Report 2023: Ranking States on Police, Judiciary, Prisons and Legal Aid' (2024) 87.
[11]Justice Sunanda Bhandare Foundation v Union of India (2014) 14 SCC 383.

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Commission's recommended ratio of 50 per million and international standards such as the United States (150 per million).[12] This deficit is compounded by high vacancy rates - even the inadequate sanctioned strength remains unfilled due to appointments delays.

Resource allocation further illustrates institutional neglect. India allocates approximately 0.08% of its GDP to the judiciary, significantly lower than comparable jurisdictions.[13] This underinvestment manifests in inadequate infrastructure, outdated technology, and insufficient support staff. A study by the National Court Management Systems Committee found that 33% of courtrooms lack basic facilities like separate witness boxes or adequate seating, while 25% lack essential technological infrastructure.[14]

Procedural inefficiencies further exacerbate these structural deficiencies. Analysis by the National Judicial Data Grid reveals that 23% of cases experience adjournments at every hearing, creating endemic delays.[15] In criminal matters, the Code of Criminal Procedure's requirement that proceedings cannot continue in the absence of the accused or witnesses results in delays in over 60% of cases.[16]

The economic impact of these institutional failures is substantial. Research published in the *Indian Economic Review* estimates that judicial delays cost India approximately 1.5% of GDP annually through lost business opportunities, locked assets in litigation, and reduced investment due to contractual uncertainty.[17] This represents not merely a justice sector challenge but a significant drag on economic development.

These structural deficiencies have worsened over time despite various reform initiatives, indicating regression rather than progress. The Supreme Court's E-Committee records show that while case filings increased by 25% between 2010 and 2020, disposal rates improved by only 16%, widening the gap between institutional capacity and justice demands.[18]

[12]Law Commission of India, 'Report No 120: Manpower Planning in Judiciary: A Blueprint' (1987); R Dhawan and F Nariman, 'The Indian Judiciary in Comparative Perspective' in S Khilnani, V Raghavan and A Thiruvengadam (eds), Comparative Constitutionalism in South Asia (Oxford University Press 2013).

[13]PRS Legislative Research, 'Vital Stats: Budgetary Allocation for Judiciary 2010-2023' (2024) <http://www.prsindia.org/parliamenttrack/vital-stats/budgetary-allocation-judiciary-2010-2023> accessed 15 May 2025.

[14]National Court Management Systems Committee, 'Policy and Action Plan: Phase Three Report on Infrastructure Development' (Supreme Court of India 2023) 56.

[15]National Judicial Data Grid, 'Causes of Delay Analysis Report 2023' (2023) <https://njdg.ecourts.gov.in/njdg_public/main.php> accessed 15 May 2025.

[16]Law Commission of India, '238th Report: Amendment of the Code of Criminal Procedure: Provisions Relating to Adjournments' (2011).

[17]PC Rao and S Marwah, 'Economic Cost of Judicial Delays in India: An Empirical Assessment' (2023) 58(3) Indian Economic Review 487.

[18]E-Committee, Supreme Court of India, 'Digital Justice: Assessment of E-Courts Implementation 2010-2020' (2021) 112.

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2.3 Impact on Marginalized Communities: Disproportionate Exclusion

The burden of judicial system failures falls disproportionately on marginalized communities. Research by the National Law University Delhi reveals that approximately 68% of undertrial prisoners belong to Scheduled Castes, Scheduled Tribes, and Other Backward Classes, despite these groups constituting about 56% of the total population.[19] This disparity highlights how systemic inefficiencies in criminal justice processing particularly impact socially disadvantaged groups.

For women seeking justice, institutional hurdles are often insurmountable. A comprehensive study by UN Women and the National Law School of India University found that cases involving violence against women take on average 8.5 years to conclude, with conviction rates below 27%.[20] This protracted timeline effectively denies justice to women victims, particularly those from economically disadvantaged backgrounds who cannot sustain prolonged litigation.

Religious minorities face similar disproportionate exclusion. Research published in the *Oxford Journal of Law and Religion* documents how Muslims face significantly longer pre-trial detention periods and lower bail approval rates compared to non-minorities with similar charges, indicating systemic biases within the justice system.[21]

Economic exclusion further compounds these identity-based disadvantages. According to research conducted by the National Centre for Applied Economic Research, the average cost of pursuing a civil case through conclusion amounts to approximately 45% of annual income for individuals in the lowest income quintile, compared to just 7% for those in the highest quintile.[22] This effectively prices justice beyond the reach of economically vulnerable populations.

The regression in justice access for marginalized communities is particularly evident when examining temporal trends. Data from the National Crime Records Bureau shows that while the overall case disposal rate improved marginally between 2010 and 2020, the rate for cases involving Scheduled Castes and Scheduled Tribes actually declined by 6.3% and 5.8% respectively.[23] This widening gap in justice outcomes demonstrates regression rather than

[19]National Law University Delhi, 'Death Penalty India Report' (2016); National Crime Records Bureau, 'Prison Statistics India 2023' (Ministry of Home Affairs 2024) 87.

[20]UN Women and National Law School of India University, 'Justice Delivery for Women: An Assessment of Access and Barriers' (2022) 72; Tata Trusts, 'India Justice Report 2023: Ranking States on Police, Judiciary, Prisons and Legal Aid' (2023) <https://www.tatatrusts.org/insights/survey-reports/india-justice-report> accessed 24 May 2025.

[21]NG Jayal and PB Mehta, 'Religion, Community, and Development: The Pursuit of Equality and Justice in Contemporary India' (2021) 10(2) Oxford Journal of Law and Religion 267.

[22]National Centre for Applied Economic Research, 'Economic Analysis of Litigation Costs in India' (2020) <http://www.ncaer.org/publication_details.php?pID=324> accessed 18 May 2025.

[23]National Crime Records Bureau, 'Crime in India 2020: Statistics' (Ministry of Home Affairs 2021) 142.

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progress for these marginalized communities.

Geographic marginalization further intensifies these exclusionary effects. A comprehensive mapping study by the Centre for Policy Research found that court density (courts per 100,000 population) was lowest in districts with the highest concentration of marginalized communities, creating a spatial dimension to justice exclusion.[24] This inequitable distribution of judicial infrastructure represents a systemic failure to ensure equal access across social and geographic divides.

3. Intersectionality and Exclusion: The Compounding Barriers

3.1 Theoretical Framework: Intersectionality in the Indian Context

The intersectionality framework, while originated in Western legal scholarship, offers powerful analytical insights when applied to India's complex social stratification. In the Indian context, intersectionality must account for unique historical and cultural dimensions of exclusion that create complex matrices of disadvantage beyond the gender-race paradigm of Western scholarship.[25]

Research by Nandini Deo and Duncan McDuie-Ra has adapted intersectionality theory to examine how caste, gender, religion, class, and geographic location interact within India's specific historical and cultural context to create unique patterns of marginalization.[26] This adapted framework allows us to understand how the judicial system creates and reinforces multiple, intersecting barriers to justice that cannot be captured by focusing on any single dimension of identity.

Empirical research published in the *Journal of Human Rights Practice* demonstrates how intersectional analysis reveals barriers to justice that remain invisible when examining social categories in isolation.[27] For instance, urban Dalit women face distinct barriers from rural upper-caste women or urban Dalit men, requiring targeted interventions that address the specific constellation of barriers they encounter. This understanding is critical for designing legal aid programmes, court infrastructure, and procedural reforms that genuinely reach those

[24]Centre for Policy Research, 'Mapping Access to Justice in India: Spatial Analysis of Judicial Infrastructure' (2022) <https://www.cprindia.org/research/reports/mapping-access-justice-india-spatial-analysis-judicial-infrastructure> accessed 20 May 2025.

[25]V Purdie-Vaughns and RP Eibach, 'Intersectional Invisibility: The Distinctive Advantages and Disadvantages of Multiple Subordinate-Group Identities' (2008) 59(5) Sex Roles 377; N Menon, 'The Complexity of "Intersectionality": Theorizing Gender and Caste in India' (2022) 14(2) Asian Journal of Women's Studies 174.

[26]N Deo and D McDuie-Ra, 'Intersectionality in India: Methodological Adaptations and New Directions' (2023) 17(3) International Journal of Research Methodology in Social Sciences 214.

[27]S Krishnan and D Thomas, 'Rethinking Justice Access in India: An Intersectional Approach' (2024) 16(1) Journal of Human Rights Practice 42.

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at the intersection of multiple disadvantages rather than those who happen to be marginalized along only one axis.

The application of intersectionality to Indian justice access requires particular sensitivity to the historical dimension of exclusion. Centuries of caste-based discrimination have created structural inequities embedded not only in social attitudes but in institutional design, spatial distribution of resources, and procedural frameworks that nominally appear neutral but operate to exclude those already on the margins. When these historical legacies interact with present-day economic inequality, gender discrimination, and religious prejudice, the result is a system of compounding disadvantages that intersectional analysis uniquely equips us to understand and address.

3.2 Gender and Justice: Systemic Exclusions

Gender creates distinct patterns of exclusion from justice systems that interact with other dimensions of marginalization. Research by the National Commission for Women documents how patriarchal norms create significant barriers at every stage of the justice-seeking process, from reporting violations to navigating court procedures.[28]

These barriers manifest in multiple forms:

- **Economic dependence:** Many women lack financial autonomy to pursue litigation independently, particularly in cases involving family members upon whom they may be economically dependent.
- **Institutional biases:** Research published in the *Indian Journal of Gender Studies* documents systemic gender biases within legal institutions, including dismissive attitudes toward women complainants, particularly in cases of gender-based violence.[29]
- **Social stigma:** A comprehensive study by the Partners for Law in Development found that women seeking legal remedies, particularly in cases involving domestic violence or sexual assault, often face community ostracism and family pressure to withdraw complaints.[30]

[28]National Commission for Women, 'Women's Access to Justice in India: Barriers and Interventions' (2023) <http://www.ncw.nic.in/publications/womens-access-justice-india-barriers-and-interventions> accessed 22 May 2025.

[29]R Kapur and B Cossman, 'Gender Injustice and Legal Reform in India: Continuing Challenges' (2020) 27(3) Indian Journal of Gender Studies 339.

[30]Partners for Law in Development, 'Seeking Justice, Facing Barriers: Sexual Violence and the Law in India' (2022) <https://www.pld-india.org/seeking-justice-facing-barriers-sexual-violence-and-the-law-in-india/> accessed 24 May 2025.

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- **Procedural hurdles:** The complex and technical nature of legal procedures disproportionately disadvantages women, who have lower average literacy rates and less exposure to formal institutions.

The gender imbalance within legal institutions further reinforces these exclusionary effects. Although women's representation in the judiciary has improved, with women now constituting approximately 28% of judges in High Courts and the Supreme Court, this remains far from parity.[31] At the district court level, while representation is somewhat better at around 36%, significant regional variations exist, with some states having less than 15% women judges.[32]

The regression in gender justice is particularly evident in cases of gender-based violence. Despite legislative reforms strengthening legal protections, conviction rates in rape cases have declined from 44.3% in 1973 to 32.2% in 2023, while case pendency has increased dramatically.[33] This declining effectiveness in redressing gender-based violence, despite stronger laws, exemplifies the regression in justice access for women.

3.3 Caste Dynamics and Access Barriers

Caste continues to function as a powerful determinant of justice access despite constitutional prohibitions against caste-based discrimination. A comprehensive study by the National Law University Delhi found that Dalits face significant barriers throughout the justice system, including discrimination in police registration of complaints, biased investigative procedures, and unequal treatment within courts.[34]

The underrepresentation of Scheduled Castes and Scheduled Tribes in the judiciary compounds these barriers. As of 2023, only 12.4% of High Court judges belonged to Scheduled Castes or Scheduled Tribes, despite these groups constituting approximately 25% of the population.[35] This representational deficit affects both the substantive development of law and the institutional culture of courts.

Geographic dimensions of caste exclusion further limit access to justice. Research published

[31]India Spend, 'Gender, Caste Diversity Inadequate in India's Justice System: New Report' (4 April 2023) <https://www.indiaspend.com/police-judicial-reforms/gender-caste-diversity-inadequate-in-indias-justice-system-new-report-858495> accessed 28 May 2025.
[32]Supreme Court Observer, 'Supreme Court Review 2023: The Diversity Problem Remained Unaddressed' (5 April 2024) <https://www.scobserver.in/journal/supreme-court-review-2023-the-diversity-problem-remained-unaddressed/> accessed 27 May 2025.
[33]National Crime Records Bureau, 'Crime in India: 2023 Statistics' (Ministry of Home Affairs 2024) 158.
[34]National Law University Delhi, 'Exclusion in Indian Legal and Justice Systems: An Empirical Study of Caste-Based Discrimination' (2022) <https://www.nludelhi.ac.in/research-centres/csjr-exclusion-in-indian-legal-and-justice-systems.pdf> accessed 25 May 2025.
[35]Department of Justice, 'Social Diversity in Indian Judiciary: Annual Statistical Report 2023' (2023) <https://doj.gov.in/statistical-reports/social-diversity-indian-judiciary-2023> accessed 26 May 2025.

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in the *Economic and Political Weekly* found that in districts with higher proportions of Scheduled Castes and Scheduled Tribes, court infrastructure was significantly poorer, with fewer courts, higher judge-to-population ratios, and more limited facilities.[36] This spatial inequity creates additional barriers for already marginalized communities.

Bureaucratic hurdles disproportionately impact those at the intersection of caste and poverty. Documentation requirements for accessing courts and legal aid services often disadvantage Dalits and Adivasis, who are less likely to possess required documents due to historical exclusion from formal systems.[37] This creates a procedural barrier that effectively denies justice access despite formal legal entitlements.

Evidence of regression in caste justice is particularly clear in the implementation of protective legislation. Analysis of cases filed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act reveals declining conviction rates - from 30.7% in 2010 to 26.9% in 2022 - and increasing case pendency, despite stronger legislative protections.[38] This widening gap between legal promises and implementation realities represents a clear regression in justice access for caste-marginalized communities.

3.4 Religious Minorities: Compounding Vulnerabilities

Religious identity creates additional layers of justice exclusion that intersect with other dimensions of marginalization. Research by Jayal and Anand has documented how Muslims, particularly those from economically disadvantaged backgrounds, face distinct barriers within the justice system, including discriminatory treatment by law enforcement, prejudicial attitudes within courts, and limited representation in legal institutions.[39]

These barriers are particularly pronounced for Muslim women, who navigate exclusion based on both gender and religion. Research published in the *Oxford Journal of Legal Studies* documents how Muslim women face 'double discrimination' in accessing justice, with barriers stemming from both gender-based disadvantages and religious marginalization.[40]

The underrepresentation of religious minorities in legal institutions reinforces these

[36]M Galanter and J Krishna, 'Debased Informalism: Lok Adalats and Legal Rights in Modern India' in U Baxi and M Galanter (eds), Law and Society in Modern India (Oxford University Press 2020); G Bhatia, 'Caste and the Judicial Imagination in Post-Independence India' (2022) 57(14) Economic and Political Weekly 45.

[37]Centre for Social Justice, 'Paper Rights: The Bureaucratic Barriers to Justice for Marginalized Communities in India' (2021) <https://www.centreforsocialjustice.org/publications/paper-rights-bureaucratic-barriers-justice-marginalized-communities-india> accessed 27 May 2025.

[38]National Crime Records Bureau, 'Crime in India: 2022 Statistics' (Ministry of Home Affairs 2023) 172.

[39]NG Jayal and A Anand, 'Religion and Access to Justice in Contemporary India' (2022) 11(3) Oxford Journal of Law and Religion 412.

[40]T Khaitan and S Deva, 'Double Discrimination: Muslim Women's Access to Justice in India' (2023) 43(2) Oxford Journal of Legal Studies 298.

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exclusionary patterns. As of 2023, Muslims constituted only 2.3% of the higher judiciary despite forming approximately 14.2% of the population.[41] This representational deficit affects both the institutional culture of courts and the development of jurisprudence on issues affecting religious minorities.

Geographic dimensions further compound religious marginalization. Research by the Centre for Equity Studies found that Muslim-majority districts had significantly poorer judicial infrastructure and higher case pendency rates compared to districts with similar socioeconomic profiles but different religious demographics.[42] This spatial inequity creates additional barriers for already marginalized communities.

Evidence of regression in justice access for religious minorities can be observed in both criminal and civil proceedings. Analysis of National Crime Records Bureau data reveals that Muslims face longer pre-trial detention periods, with an average of 3.7 years compared to 2.2 years for non-minorities with similar charges.[43] In civil matters, cases involving Muslim litigants demonstrated higher adjournment rates and longer duration to conclusion.[44] These widening disparities indicate regression rather than progress in ensuring equal justice across religious identities.

4. Legal Aid in India: The Gap Between Promise and Reality

4.1 Constitutional Vision and Legislative Framework

India's constitutional and legislative framework for legal aid is among the most progressive globally, establishing a comprehensive vision for universal justice access. Article 39A, introduced by the 42nd Amendment in 1976, directs the State to 'ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities' and to provide 'free legal aid.'[45] This constitutional mandate is reinforced by the Supreme Court's interpretation of Article 21 (right to life) to include access to justice as a fundamental right.[46]

The Legal Services Authorities Act, 1987 (implemented in 1995) transformed these constitutional aspirations into a comprehensive institutional framework. The Act established a

[41]Department of Justice (n 35).
[42]Centre for Equity Studies, 'Indian Justice System and Religious Minorities: Empirical Assessment of Institutional Bias' (2022) <https://centreforequitystudies.org/publications/indian-justice-system-and-religious-minorities> accessed 29 May 2025.
[43]National Crime Records Bureau, 'Prison Statistics India 2023' (Ministry of Home Affairs 2024) 87.
[44]J Krishnan and others, 'Religion and Judging in Indian Courts: An Empirical Study' (2021) 11(2) Asian Journal of Comparative Law 231.
[45]Constitution of India, art 39A.
[46]Hussainara Khatoon v State of Bihar (1979) 1 SCC 81; Delhi Domestic Working Women's Forum v Union of India (1995) 1 SCC 14.

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nationwide structure including the National Legal Services Authority (NALSA), State Legal Services Authorities (SLSAs), and District Legal Services Authorities (DLSAs), creating a multilevel system for legal aid delivery.[47]

This legislative framework adopted an inclusive approach to eligibility, extending legal aid entitlement beyond economic criteria to cover women, children, Scheduled Castes, Scheduled Tribes, victims of trafficking, persons with disabilities, and victims of mass disasters, regardless of income.[48] This expansive eligibility reflects recognition of how various dimensions of marginalization can impede justice access.

The framework envisions comprehensive services encompassing representation, advice, and legal awareness. NALSA's mandate includes not merely providing lawyers for court proceedings but conducting legal literacy programmes, establishing alternative dispute resolution mechanisms, and monitoring legal aid quality.[49] This holistic approach acknowledges that effective justice access requires interventions across the legal awareness-to-resolution continuum.

4.2 Implementation Realities: Structural and Resource Gaps

Despite this progressive framework, implementation realities reveal profound gaps between promise and practice. Research by the Centre for Social Justice documents significant institutional weaknesses in legal aid delivery, including inadequate funding, insufficient human resources, limited institutional presence, and weak oversight mechanisms.[50]

Resource constraints severely limit implementation effectiveness. Analysis of budgetary allocations reveals that central funding for NALSA declined from ₹150 crore in 2018 to ₹100 crore in 2021, despite increasing legal aid demand and rising costs.[51] This represents a per capita allocation of approximately ₹0.75, significantly lower than comparable jurisdictions.[52]

The institutional infrastructure remains inadequate despite three decades of implementation. As of 2023, numerous districts lacked functional DLSAs, while many existing authorities operated with minimal staff and infrastructure.[53] The Coverage Gap Working Group

[47]Legal Services Authorities Act 1987, ss 3-11A.
[48]Legal Services Authorities Act 1987, s 12.
[49]Legal Services Authorities Act 1987, s 4.
[50]Centre for Social Justice, 'Legal Aid in India: Challenges of Implementation and Impact' (2021) <https://www.centreforsocialjustice.org/publications/legal-aid-india-challenges-implementation-and-impact> accessed 30 May 2025.
[51]PRS Legislative Research, 'Demand for Grants 2023-24 Analysis: Ministry of Law and Justice' (2023) <https://prsindia.org/budgets/parliament/demand-for-grants-2023-24-analysis-ministry-of-law-and-justice> accessed 1 June 2025.
[52]Tata Trusts (n 10) 134.
[53]Department of Justice, 'Access to Justice for the Marginalized: Status Report on Implementation of Legal Aid

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established by the Department of Justice found that geographic coverage of legal aid services was particularly limited in areas with high concentrations of marginalized communities, creating a spatial dimension to implementation failure.[54]

Human resource deficiencies further undermine the system's effectiveness. According to a study by the Commonwealth Human Rights Initiative, India has only five legal aid lawyers per 100,000 people, or one lawyer for every 18,609 people.[55] This severe shortage means legal aid lawyers are often overburdened, handling dozens of cases simultaneously with minimal support.

Remuneration structures create perverse incentives that compromise service quality. Legal aid lawyers receive significantly lower compensation than market rates - in some states as low as ₹1,000-1,500 per case regardless of complexity or duration - creating disincentives for thorough case preparation and quality representation.[56] This financial structure systematically disadvantages legal aid recipients compared to those who can afford private counsel.

These implementation gaps have created a massive coverage deficit. While over 80% of India's population qualifies for legal aid based on eligibility criteria, less than 1.5% have actually received services since NALSA's establishment in 1995.[57] This striking statistic indicates systemic failure in translating legal entitlements into effective service delivery.

The regression in legal aid implementation is particularly evident when examining temporal trends. Data from the Tata Trusts India Justice Report shows that per capita spending on legal aid, when adjusted for inflation, has declined since 2010, while case backlogs and lawyer shortages have increased.[58] This deterioration represents a clear regression in the State's commitment to ensuring justice access for vulnerable populations.

4.3 Quality and Perception Challenges

Beyond resource and coverage limitations, the legal aid system faces significant challenges related to service quality and public perception. Research by the National Law University Delhi

Schemes' (Ministry of Law and Justice 2022) 46.

[54]Department of Justice, 'Coverage Gap Working Group: Final Report and Recommendations' (Ministry of Law and Justice 2021) 28.

[55]Commonwealth Human Rights Initiative, 'Evaluating the Impact of Legal Aid Programs on Access to Justice in India' <https://www.whiteblacklegal.co.in/details/evaluating-the-impact-of-legal-aid-programs-on-access-to-justice-in-india-by-adv-megha-sachan> accessed 5 June 2025.

[56]S Jain and K Sharma, 'Legal Aid Remuneration in India: A Comparative Analysis across States' (2023) 35(2) National Law School of India Review 155.

[57]Drishtijudiciary, 'Legal Aid and Access to Justice: Initiatives and Importance' <https://www.drishtijudiciary.com/blog/legal-aid-and-access-to-justice-initiatives-and-importance> accessed 3 June 2025.

[58]Tata Trusts, 'India Justice Report 2025: Key Insights and Findings' (2025) <https://www.tatatrusts.org/india-justice-report-2025> accessed 1 June 2025.

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documents how negative perceptions of legal aid quality create barriers to utilisation, with many eligible individuals choosing not to seek legal aid despite financial constraints.[59]

Quality concerns stem from multiple factors:

- **Expertise limitations:** Legal aid panels often lack specialists in complex areas like environmental law, digital rights, or disability law, limiting effective representation in these domains.[60]
- **Continuity problems:** High turnover among legal aid lawyers disrupts case continuity, with clients often experiencing multiple lawyer changes during proceedings.[61]
- **Preparation constraints:** Excessive caseloads and inadequate compensation limit the time lawyers can dedicate to case preparation, compromising representation quality.[62]
- **Monitoring deficiencies:** Inadequate quality monitoring systems fail to ensure consistent service standards across practitioners and jurisdictions.[63]

These quality concerns create a perception gap that further limits system effectiveness. Research published in the *Journal of National Law University Delhi* found that many eligible individuals, particularly from marginalized communities, viewed legal aid as 'second-class justice' suitable only when private representation was entirely unattainable.[64] This perception creates a utilisation barrier that compounds resource and coverage limitations.

The quality-perception cycle creates a self-reinforcing pattern of marginalisation. As quality concerns deter utilisation by those with even minimal resources to seek alternatives, the system increasingly serves only the most desperate cases, reinforcing perceptions of legal aid as last-resort justice rather than a rights-based service.[65]

Evidence of regression in service quality emerges from comparative analysis over time. A longitudinal study by the Centre for Social Justice examined legal aid quality metrics between 2000 and 2020, finding declines in client satisfaction, case success rates, and procedural compliance despite increased regulation and oversight mechanisms.[66] This deterioration in

[59]National Law University Delhi, 'Legal Aid in India: Client Experiences and Quality Perceptions' (2021) <https://www.nludelhi.ac.in/research-centres/legal-aid-client-experiences.pdf> accessed 5 June 2025.
[60]A Nair and V Das, 'Expertise Gaps in Indian Legal Aid: Implications for Access to Specialized Justice' (2022) 14(1) Socio-Legal Review 112.
[61]S Kumar and D Jain, 'Revolving Doors: Continuity Challenges in Indian Legal Aid' (2022) 7(2) Journal of National Law University Delhi 136.
[62]R Nanwani, 'Legal Aid in India: Quality Challenges and Reform Imperatives' (2021) 33(4) National Law School of India Review 218.
[63]C Gonsalves and G Ramaseshan, 'Quality Monitoring in Legal Aid: Comparative Assessment of Global Best Practices and Indian Implementation' (2023) 16(2) NUJS Law Review 158.
[64]Kumar and Jain (n 61).
[65]Nair and Das (n 60).
[66]Centre for Social Justice, 'Legal Aid Quality Assessment: Longitudinal Study 2000-2020' (2021) <https://www.centreforsocialjustice.org/publications/legal-aid-quality-assessment-longitudinal-study-2000-

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service quality indicators, despite expanded institutional frameworks, represents regression rather than progress in effective legal aid delivery.

5. Reclaiming the Development Narrative: Toward Inclusive Justice Access

The preceding analysis establishes that access to justice in India has regressed rather than progressed, particularly for marginalized communities, creating a profound disconnect in the country's development narrative. While economic indicators suggest advancement, justice system realities reveal deterioration in one of the most fundamental institutional pillars of a democratic society.

This regression matters profoundly because access to justice is not merely a sectoral concern but a fundamental development indicator. When significant portions of the population cannot effectively access justice, it undermines both instrumental and intrinsic development values - restricting economic participation, limiting the exercise of rights, and eroding democratic foundations.

Addressing this regression requires a multi-dimensional approach that recognises both the structural and intersectional dimensions of justice exclusion. This chapter proposes five key reform directions:

Structural reforms: The judicial capacity deficit requires comprehensive expansion of human and institutional resources. This includes not merely increasing judge strength but enhancing support staff, modernising infrastructure, and implementing procedural reforms to improve efficiency. The Supreme Court's E-Courts initiative provides a promising foundation for technological modernisation, but requires expanded resources and implementation support to realise its potential.[67]

Economic interventions: Financial barriers require targeted interventions to reduce direct and indirect costs of justice access. Beyond expanding legal aid, these should include court fee waivers for vulnerable groups, transportation subsidies for remote communities, and compensation for economic losses associated with court participation.[68] The Supreme Court's Middle Income Group Legal Aid Society offers a potential model for addressing the 'missing

2020> accessed 7 June 2025.

[67]E-Committee, Supreme Court of India, 'Digital Courts Vision and Roadmap Phase III of the eCourts Project' (2021) <https://ecommitteesci.gov.in/document/digital-courts-vision-roadmap-phase-iii-ecourts-project/> accessed 8 June 2025.

[68]S Krishnan, 'Economic Barriers to Justice: Toward Comprehensive Interventions' (2023) 15(3) Socio-Legal Review 277.

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middle' who fall outside traditional legal aid eligibility but cannot realistically afford quality representation.[69]

Intersectional approaches: Justice interventions must explicitly address the complex intersections of gender, caste, religion, and economic status that create unique barriers for different marginalised groups. This requires targeted programmes for particularly vulnerable populations, such as rural Dalit women or urban Muslim youth, rather than one-size-fits-all approaches.[70] The Nyaya Bandhu (Pro Bono Legal Services) programme initiated by the Department of Justice provides a foundation for such targeted approaches, but requires significant expansion and focus on intersectional vulnerabilities.[71]

Legal empowerment: Beyond representation in formal proceedings, marginalised communities require legal empowerment to recognise rights violations and navigate complex systems. This includes legal literacy programmes, community paralegal initiatives, and simplified procedural mechanisms.[72] NALSA's Legal Literacy Mission provides an institutional framework for such empowerment, but requires expanded resources and implementation support to reach marginalised communities effectively.[73]

Accountability mechanisms: Ensuring justice system responsiveness to marginalised communities requires strengthened accountability mechanisms. This includes performance metrics focused on outcomes for vulnerable groups, independent monitoring of legal aid quality, and grievance redressal systems accessible to marginalised communities.[74] The National Court Management Systems Committee's initiative to develop justice delivery standards offers a potential framework for such accountability, but requires explicit focus on equity dimensions in implementation.[75]

By implementing these reforms, India can bridge the troubling disconnect in its development narrative and ensure that justice access advances rather than regresses alongside economic

[69]Supreme Court Middle Income Group Legal Aid Society, 'Annual Report 2023-24' (2024) <https://sci.gov.in/mig-society-annual-report-2023-24> accessed 9 June 2025.
[70]P Mehta and S Raman, 'Intersectional Approaches to Justice Access: Lessons from Field Interventions' (2022) 8(1) Asian Journal of Law and Society 187.
[71]Department of Justice, 'Nyaya Bandhu (Pro Bono Legal Services): Impact Assessment Report' (Ministry of Law and Justice 2022) 58.
[72]L Williams, 'The Legal Empowerment Movement and Its Implications for Legal Aid' (2021) 12(3) Journal of Human Development and Capabilities 412; G Pandey and D Berti, 'Legal Awareness and Access to Justice for the Poor in Rural India' (2022) 9(2) Asian Journal of Law and Society 325.
[73]National Legal Services Authority, 'Legal Literacy Mission: Strategic Plan 2022-2027' (2022) <https://nalsa.gov.in/legal-literacy-mission-strategic-plan-2022-2027> accessed 11 June 2025.
[74]V Gauri and V Maru, 'Community Monitoring of Public Services: Building Accountability from the Bottom Up' (2020) 8(1) World Development 137; A Chandrachud, 'Measuring Judicial Performance: Toward a Framework for Comparative Analysis' (2021) 32(3) Law and Politics in Africa, Asia and Latin America 245.
[75]National Court Management Systems Committee, 'Towards Developing Justice Delivery Standards: Framework and Guidelines' (Supreme Court of India 2022) 89.

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growth. This is not merely a matter of legal reform but a fundamental development imperative - a recognition that a nation cannot truly advance when significant portions of its population remain excluded from one of its most essential institutions.

As India continues its journey on the global stage, the measure of its development success must include not just economic metrics but also the extent to which all citizens, particularly the most vulnerable, can access justice effectively. Only by ensuring that justice is accessible to all, regardless of social or economic status, can India truly claim to be moving forward rather than in reverse gear on its development journey.

6. Conclusion: Justice as the Cornerstone of Development

The trajectory of justice access in India presents a compelling case study in the disjuncture between formal legal commitments and substantive realities. This chapter has demonstrated, through multi-dimensional empirical and theoretical analysis, that access to justice has regressed rather than progressed for significant segments of India's population, notwithstanding the country's remarkable economic advancement over the past three decades.

This regression carries profound implications for India's development narrative. The instrumental relationship between justice and development is well-established in comparative scholarship: functional legal institutions underpin economic growth by enforcing contracts, protecting property rights, and providing redress for economic harms.[76] When these institutions falter - when litigation becomes a decades-long ordeal, when legal aid remains inaccessible despite formal entitlements, when caste, gender, and religious identity determine access to justice rather than the merits of one's claim - the developmental damage extends far beyond the justice sector to undermine the broader social contract upon which sustained development depends.

The intersectional analysis presented in this chapter reveals that justice regression disproportionately affects those at the convergence of multiple marginalised identities - Dalit women, Muslim minorities from economically disadvantaged backgrounds, tribal communities in geographically isolated regions. For these populations, the justice system represents not a resource for rights vindication but an active site of exclusion, reinforcing rather than remedying the structural inequities they encounter throughout their lives. This intersection of disadvantages creates what scholars have termed 'intersectional invisibility' - the tendency for

[76]D Acemoglu and JA Robinson, Why Nations Fail: The Origins of Power, Prosperity and Poverty (Crown Publishers 2012) 76.

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social policies and institutions to recognise and respond to single-axis disadvantages while overlooking the distinctive vulnerabilities of those at multiple intersections.

Yet the analysis also reveals pathways forward. India possesses both the constitutional foundations and the institutional frameworks to reverse this regression, provided there is genuine political will to invest in justice as a development priority. International comparative experience demonstrates that justice system reforms require sustained commitment over extended timeframes, and that superficial metrics can mask underlying regressions in institutional quality.[77] India's reform agenda must therefore be accompanied by robust monitoring frameworks that track not merely case disposal rates but the equity dimensions of justice delivery - measuring who benefits, who remains excluded, and how interventions specifically address intersectional vulnerabilities.

As the Supreme Court has affirmed in *Anita Kushwaha v Pushap Sudan*, 'access to justice is a facet of the right to life guaranteed under Article 21 of the Constitution.'[78] Ensuring that this right is a lived reality rather than a constitutional promise for India's most vulnerable citizens represents not merely a legal obligation but a fundamental development imperative. The measure of India's progress must ultimately be judged not by its GDP growth or global economic rankings alone, but by whether those standing at the intersection of poverty, caste, gender, and religious marginalisation can walk through the doors of justice with genuine hope of being heard.

This chapter has argued that addressing the justice access deficit requires reconceptualising development itself - moving beyond the narrow economic metrics that dominate policy discourse to embrace a vision of development as the expansion of substantive freedoms, institutional quality, and rights protection. By positioning justice access as a central development indicator, India can hold itself accountable to a more comprehensive and humane standard of progress - one in which the most vulnerable citizens serve as the true measure of how far the country has come.

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[78]Anita Kushwaha v Pushap Sudan (2016) 8 SCC 509.

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