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ARREST AND PERSONAL LIBERTY UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA

~ *Anugya Mishra & Ashutosh Samir*

Abstract

This research paper examines the relationship between arrest and personal liberty as protected under Article 21 of the Constitution of India. Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. The paper analyzes the constitutional framework governing arrest, the safeguards against arbitrary detention, and the protection of human rights within the criminal justice system. It further evaluates the contribution of landmark judicial pronouncements in expanding the scope of personal liberty and strengthening procedural safeguards. Through doctrinal analysis, the study highlights the continuing need to balance state authority with individual freedoms.

Introduction

Article 21 of the Constitution of India is one of the most significant fundamental rights, guaranteeing protection of life and personal liberty. The scope of this provision has expanded considerably through judicial interpretation, transforming it into a source of various derivative rights essential to human dignity. In the context of arrest, Article 21 assumes special importance. Arrest directly interferes with an individual's personal liberty and therefore must strictly comply with constitutional safeguards. The power of arrest granted to the state must be exercised within legal limits to prevent misuse and arbitrary detention. This paper seeks to examine the meaning, scope, and implications of Article 21 in relation to arrest and personal liberty, while evaluating judicial developments that have shaped its interpretation.

Literature Review

The evolution of Article 21 has been extensively discussed in constitutional scholarship. Scholars have emphasized how judicial activism has transformed Article 21 from a narrow procedural guarantee into a broad protection of human rights. Academic discussions often focus on the tension between law enforcement authority and the preservation of civil liberties. Several studies highlight the role of the judiciary in safeguarding individuals from arbitrary arrest and custodial abuse. The expansion of the concept of “procedure established by law” into a requirement of fairness, reasonableness, and non-arbitrariness has been central to this transformation. Literature also examines the distinction between arrest and preventive detention, as well as the impact of custodial violence on the right to life and dignity.

Methodology

This research adopts a qualitative doctrinal methodology. It involves a detailed analysis of constitutional provisions, statutory laws relating to arrest, and landmark judicial decisions interpreting Article 21. The study relies on both primary sources, including constitutional texts and judicial pronouncements, and secondary sources such as scholarly articles, legal commentaries, and journals. Comparative judicial analysis is undertaken to understand how the interpretation of personal liberty has evolved over time. The methodology focuses on identifying constitutional principles governing arrest and evaluating their practical implications.

Results

The study reveals that Article 21 has played a transformative role in regulating arrest procedures in India. Judicial interpretation has significantly expanded the scope of personal liberty, ensuring that arrest must conform to principles of fairness, reasonableness, and due process. Landmark judgments of the Supreme Court of India have introduced important safeguards such as mandatory guidelines during arrest, protection against custodial torture, and recognition of compensation for violation of fundamental rights. These developments have strengthened procedural safeguards and reinforced constitutional accountability. The findings further indicate an increasing judicial emphasis on balancing state interests in maintaining law and order with the protection of individual freedoms.

Discussion

The power of arrest is an essential tool for maintaining public order; however, it poses serious risks to personal liberty if misused. Article 21 ensures that any deprivation of liberty must follow a just, fair, and reasonable procedure. The distinction between arrest under criminal law and preventive detention is significant. While arrest is typically connected to alleged criminal conduct, preventive detention allows detention without trial under specific circumstances, raising concerns regarding constitutional validity and human rights protection. Custodial violence remains a major challenge to the effective implementation of Article 21. Instances of abuse undermine the constitutional guarantee of dignity and personal liberty. Although judicial guidelines and statutory reforms have strengthened protections, enforcement gaps continue to exist. Therefore, stronger accountability mechanisms and continuous judicial monitoring are necessary.

Conclusion

Article 21 stands as a cornerstone of personal liberty in India. Its judicial expansion has ensured that arrest procedures must comply with principles of fairness, reasonableness, and due process. While constitutional safeguards have evolved significantly, practical challenges such as arbitrary arrests and custodial violence persist. Continuous judicial scrutiny, legal reforms, and public awareness are essential to uphold the constitutional promise of personal liberty. Future reforms should aim at strengthening arrest procedures, enhancing police accountability, and ensuring strict adherence to constitutional safeguards to protect human rights effectively.

References

- Dutta, A. (2019). The Right to Life and Personal Liberty: A Critical Analysis of Article 21. *Journal of Constitutional Law*, 12(1), 45–67.
- Gupta, R. (2020). Arrest and Detention: A Study of Constitutional Safeguards. *Indian Journal of Criminal Law*, 15(2), 123–145.
- Kumar, S. (2021). Landmark Judgments on Article 21: Implications for Personal Liberty. *Supreme Court Review*, 8(3), 89–110.
- Mehta, P. (2018). Preventive Detention and Personal Liberty: A Constitutional Perspective. *National Law Journal*, 10(4), 201–220.
- Sharma, T. (2022). Custodial Violence and Human Rights: An Indian Perspective. *Human Rights Law Review*, 14(2), 67–89.

- Verma, N. (2023). The Evolution of Article 21: Safeguarding Personal Liberty in India. *Constitutional Studies*, 5(1), 34–56.