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## EXPANSION OF ARTICLE 21 OF INDIAN CONSTITUTION AND ITS JUDICIAL INTERPRETATION

*-Priyansh Tyagi*

Among the array of fundamental rights guaranteed in Part III of the Indian Constitution, Article 21 emerges as the cornerstone. It reads:

*“No person shall be deprived of his life or personal liberty except according to procedure established by law.”*

These eighteen words form the bedrock of human rights in India. Justice P.N. Bhagwati famously described Article 21 as embodying *“a constitutional value of supreme importance in a democratic society.”* Not Only Citizens, But Non-Citizens can also claim protection under this article as was affirmed by the court in the case of ***Chairman, Railway Board & Ors vs Mrs Chandrima Das & Ors***<sup>1</sup>. However, it is to be noted that Article 21 applies only to Natural Persons and not to Corporate bodies. Article 21 can be claimed only when a person is deprived of his “life” or “personal liberty” by the “State” as Defined in Article 12. The Supreme court has described this right as “Heart of the Constitution”<sup>2</sup>. It is one of the most organic and living provision of the constitution.

### HISTORY OF THE PROVISION

Any analysis of the evolution of Article 21 must begin with an examination of what the framers of constitution deliberately chose to exclude. Article 21, which was originally called Draft Article 15, underwent intense debate in the Constituent Assembly on 6 and 13 December, 1948. The main decision to be made was regarding the fundamental question of whether to adopt the “due process” clause of the American Constitution or the “procedure established by law” clause of the Japanese Constitution. Sir B.N Rau, who was the Constitutional Advisor to the Constituent Assembly, proposed the incorporation the “due process” clause in draft article. The “due process” clause would have allowed courts to not just check if a law existed, but also evaluate whether the procedure it set out was fair and reasonable. However, this idea faced Strong opposition as some people argued that the judiciary would be placed above the legislature in matters relating to the liberty of the subject. In other words, the courts would have the power to hold any law made by legislature unreasonable. This debate, however, did not end

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<sup>1</sup> *Chairman, Railway Board & Ors vs Mrs Chandrima Das & Ors* 2000 (2) SCC 465

<sup>2</sup> *I.R Coelho v. State of T.N*, AIR 2007 SC 891.

there. In order to gain a better understanding of the clause 'Due Process of Law', Sir B.N. Rau, consulted various constitutional experts around the world including Justice Frankfurter, a distinguished judge of the Supreme Court of the United States of America. He advised him not to go for 'Due Process of Law'. This led the Drafting Committee of the Constitution to drop the 'Due Process of Law' clause and instead go for the comparatively narrower 'procedure'. What is particularly interesting is that, despite this intentional choice, the Supreme Court of India gradually broadened the meaning of "procedure established by law" through judicial interpretation. In the landmark case of **Maneka Gandhi v. Union of India**, the Court determined that such procedures must be fair, just, and reasonable, effectively reintroducing the core idea of "due process" into Indian constitutional law.

### **EVOLUTION FROM 'PROCEDURE ESTABLISHED BY LAW' TO 'DUE PROCESS OF LAW'**

The interpretation of Article 21 has witnessed an outstanding shift since the commencement of the Constitution. At first, the Supreme Court took a narrow view of the Constitution. Over time, the Court broadened its interpretation, making Article 21 one of the most dynamic and essential fundamental rights in the Constitution.

The Supreme Court Interpreted Article 21 for the first time in the case of **A.K. Gopalan v. State of Madras**.<sup>3</sup> The petitioner, who was subject to preventive detention under the Preventive Detention Act, argued that the detention infringed his fundamental rights under the Constitution. The Supreme Court gave a narrow interpretation of the Constitution, holding that the words "procedure established by law" merely meant that the procedure must be established by a validly enacted law. The Supreme Court did not examine the fairness, justice, or reasonability of the procedure adopted under the law. Furthermore, the Supreme Court held that each fundamental right is independent and separate from the other, and that the rights contained in Articles 14, 19, and 21 are not interconnected.

A gradual shift in the judicial approach appeared in the case of **Kharak Singh vs. State of Uttar Pradesh**<sup>4</sup> where the court examined the constitutional validity of police surveillance over a suspect. It involved a challenge to parts of the UP Police Regulations, which allowed police to monitor the suspect, including nighttime visits to the suspect's home. Although the majority opinion stated that the right to privacy was not clearly protected by the Constitution, the Court struck down the provision about home visits at night because it violated the personal liberty guaranteed by Article 21. A key point in the judgment came from Justice Subba Rao's dissent. He noted that personal liberty includes various rights that ensure a person's freedom of movement and dignity.

The most revolutionary explanation of Article 21 was provided in the landmark judgment delivered in the case of **Maneka Gandhi vs. Union of India**<sup>5</sup>. In this case, the passport of the petitioner was impounded by the government without adequate reasons. The petitioner, Maneka Gandhi, challenged this action of the government, arguing that it had violated her fundamental right to liberty. While delivering the judgment, the Supreme Court completely

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<sup>3</sup> *A.K. Gopalan v. State of Madras, AIR 1950 SC 27*

<sup>4</sup> *Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC 1295*

<sup>5</sup> *Maneka Gandhi v. Union of India, AIR 1978 SC 597*

changed the perspective on the explanation of Article 21. It was held that the procedure followed must be fair, just, and reasonable, and not arbitrary, fanciful, or oppressive. It was further held that Articles 14, 19, and 21 are not independent, but rather interconnected and form a 'Golden triangle'. Thus, the court incorporated the concept of due process into Indian constitutional law.

## POST MANEKA GANDHI DEVELOPMENTS

The judgment delivered in the case of *Maneka Gandhi vs. Union of India* was a landmark judgment in the constitutional history of India. It broadened the scope of Article 21, which led to the recognition of various derivative rights that are discussed below.

### 1. RIGHT TO LIVE WITH HUMAN DIGNITY

The Supreme Court stated that the right to life under Article 21 does not mean mere animal existence but includes the right to live with dignity and basic human necessities. In *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*<sup>6</sup>, the court observed “*The Right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings*”.

### 2. RIGHT TO LIVELIHOOD

The right to livelihood was recognized as an integral part of the right to life in *Olga Tellis v. Bombay Municipal Corporation*<sup>7</sup> which is also known as Slum Dwellers case. The Court held that “*The right to life includes the right to livelihood, If the right to livelihood is not treated as a part of the constitutional right to right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Deprive a person of his right to livelihood and you shall have deprived him of his life.*”

### 3. RIGHT TO SPEEDY TRIAL

The right to a speedy trial is considered an essential component of personal liberty. In *Hussainara Khatoon v. State of Bihar*<sup>8</sup>, the Supreme Court emphasized that prolonged detention of undertrial prisoners without trial violates Article 21. The judgment highlighted the importance of timely justice as a fundamental right.

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<sup>6</sup> *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi*, AIR 1981 SC 746

<sup>7</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180

<sup>8</sup> *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1360

#### 4. RIGHT TO FREE LEGAL AID

Access to justice was recognized as a fundamental right under Article 21. In *Khatri v. State of Bihar*,<sup>9</sup> the Court held that the State is under a constitutional obligation to provide free legal aid to accused persons to ensure a fair trial.

#### 5. RIGHT TO CLEAN ENVIRONMENT

The Supreme Court has interpreted Article 21 to include the right to live in a pollution-free environment. In *M.C Mehta v. UOI*<sup>10</sup>, the Court held that the right to life includes the right to enjoy pollution-free water and air, recognizing environmental protection as part of fundamental rights.

#### 6. RIGHT TO PRIVACY

A major constitutional milestone occurred in *Justice K.S. Puttaswamy v. Union of India*<sup>11</sup>, where a nine-judge bench unanimously held that the right to privacy is a fundamental right under Article 21. The Court recognized privacy as essential to human dignity, autonomy, and personal liberty.

#### 7. RIGHT TO EDUCATION

The Supreme Court recognized education as an essential element of life and personal liberty. In *Mohini Jain v. State of Karnataka*<sup>12</sup> and *Unni Krishnan v. State of Andhra Pradesh*<sup>13</sup>, the Court held that the right to education for children up to the age of fourteen is implicit in Article 21. This interpretation later led to the **86th Constitutional Amendment** which introduced Article 21A.

#### 8. RIGHT TO HEALTH

The Court has repeatedly emphasized that access to healthcare is a fundamental right. In *Parmanand Katara v. Union of India*,<sup>14</sup> the Court held that every doctor, whether in a government hospital or private institution, has a professional obligation to provide immediate medical assistance to a person in need, as preservation of human life is of paramount importance.

#### 9. RIGHT AGAINST CUSTODIAL VIOLENCE

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<sup>9</sup> *Khatri v. State of Bihar*, AIR 1981 SC 928

<sup>10</sup> *M.C. Mehta v. Union of India*, AIR 1987 SC 1086

<sup>11</sup> *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

<sup>12</sup> *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858

<sup>13</sup> *Unni Krishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178

<sup>14</sup> *Parmanand Katara v. Union of India*, AIR 1989 SC 2039

Protection against torture and custodial violence has been recognized under Article 21. In *D.K. Basu v. State of West Bengal*,<sup>15</sup> the Supreme Court laid down detailed guidelines to prevent custodial torture and protect the dignity and liberty of arrested persons.

## 10. RIGHT TO DIE WITH DIGNITY

The Supreme Court also recognized that the right to life includes the right to die with dignity under certain circumstances. In the case of *Aruna Ramachandra Shanbaug v. Union of India*<sup>16</sup>, the Court legalized passive euthanasia. In *Common Cause v. Union of India*<sup>17</sup>, the Court allowed passive euthanasia and recognized the legality of living wills, recognizing the concept of “Right to Die with Dignity.” The recent case of *Harish Rana v. Union of India*<sup>18</sup> was the first instance of court approved passive euthanasia.

## 11. RIGHT TO FOOD

Right to food is also recognised as a fundamental right under Article 21. In the case of *PUCL v. Union of India*<sup>19</sup>, the court made it obligatory for every state government and every union territory to ensure that nobody dies out of hunger, starvation or malnutrition. The court also directed the government to introduce and implement various food related schemes to ensure that food is available to everyone.

## RECENT DEVELOPMENTS

The Supreme Court has continued its progressive interpretation of Article 21, delivering various judgements recently that have pushed the boundaries of constitutional protection into new areas and domains. Some of them are:

## 12. MENTAL HEALTH AS PART OF RIGHT TO LIFE

In the case of *Sukdeb Saha v. State of Andhra Pradesh*<sup>20</sup>, the Supreme Court recognized the right to mental health as an integral component of the right to life under Article 21. The case arose from the tragic death of a 17-year-old NEET coaching student under suspicious circumstances. Exercising its powers under Article 32, the Court laid down binding guidelines for all educational institutions and coaching centres.

## 13. DIGITAL ACCESS AS A FUNDAMENTAL RIGHT UNDER ARTICLE 21

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<sup>15</sup> *D.K. Basu v. State of West Bengal*, AIR 1997 SC 610

<sup>16</sup> *Aruna Ramachandra Shanbaug v. Union of India*, (2011) 4 SCC 454

<sup>17</sup> *Common Cause v. Union of India*, (2018) 5 SCC 1

<sup>18</sup> *Harish Rana v. Union of India*, S.L.P. (C) No. 18225/2024

<sup>19</sup> *PUCL v. Union of India*, W.P. (Civil) No. 196 of 2001

<sup>20</sup> *Sukdeb Saha v. State of Andhra Pradesh*, W.P. (Crl.) No. 164/2023

In a recent case of *Pragya Prasun v. Union of India*<sup>21</sup>, the Supreme Court declared that digital access is an intrinsic component of the right to life and liberty under Article 21. The case was filed by acid attack survivors and a visually impaired lawyer who detailed the difficulties they face with digital services, particularly those requiring facial recognition or eye movement for verification. The court held that *"The right to digital access emerges as an intrinsic component of the right to life and liberty, necessitating that the state proactively design and implement inclusive digital ecosystems that serve not only the privileged but also the marginalised."*

#### 14. RIGHT TO UNOBSTRUCTED FOOTPATHS AND SAFE ROADS

In *S. Rajasekaran v. Union of India*<sup>22</sup>, the Supreme Court emphasized that the right to use footpaths without obstruction is an essential part of the fundamental right to life guaranteed under Article 21. The Court directed all States and Union Territories to formulate guidelines to ensure pedestrian safety, particularly for persons with disabilities.

#### 15. RIGHT TO MENSTRUAL HEALTH

In the case of *Dr. Jaya Thakur v. Government of India*<sup>23</sup>, the Supreme Court ruled that the right to menstrual health falls within the right to life as guaranteed under Article 21. Court Held that *"For menstruating girl children, the inaccessibility of MHM measures subjects them to stigma, stereotyping, and humiliation."*

#### CONCLUSION

From its original limited interpretation as a mere procedural requirement, Article 21 has developed into the most extensive and dynamic fundamental right in the Indian Constitution. Starting with the landmark case of *A.K. Gopalan v. State of Madras* and progressing through the case of *Maneka Gandhi v. Union of India*, the Supreme Court of India has interpreted the scope of Article 21 to include a variety of rights that are essential to the dignity of life.

Today, Article 21 includes plethora of rights such as right to privacy, health, environment, digital access, and mental health, menstrual health etc. In essence, Article 21 is the living example of transformative constitutionalism.

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<sup>21</sup> *Pragya Prasun v. Union of India, W.P. (C) No. 1083/2022*

<sup>22</sup> *S. Rajasekaran v. Union of India, (2014) 6 SCC 36*

<sup>23</sup> *Dr. Jaya Thakur v. Government of India, W.P. (C) No. 1000/2022*