



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

DUE PROCESS AND PERSONAL LIBERTY: A CASE COMMENTARY ON MANEKA GANDHI v. UNION OF INDIA(1978)

-Sristi Dutta

Citation: AIR 1978 SC 597 | (1978) 1 SCC 248

Court: Supreme Court of India (Seven-Judge Constitutional Bench)

Date of Decision: 25 January 1978

I. INTRODUCTION

What happens when you find out that your passport has been seized, with no explanation or hearing offered. That is exactly what happened to Maneka Gandhi in 1977. When Mrs Maneka Gandhi sought an explanation for this order, the Government stated that the reasons for the impoundment were not to be disclosed, citing “the interest of the general public.” What followed was a courtroom battle that permanently changed India’s understanding of freedom.

Maneka Gandhi v. Union of India¹ is not just a legal case; it is a story about living in a democracy. It brings us to the question of whether the rights enshrined in the Constitution are real protection or just words on paper and how judiciary acts as the final guardian of the constitution. The answer given by the Supreme Court, a seven-judge bench on January 25, 1978, was clear: these rights are tangible, interconnected and cannot be taken away by the State by a mere procedural trick.

II. WHAT ACTUALLY HAPPENED

Maneka Gandhi, a journalist, had a valid passport issued under the Passports Act, 1967². On 2 July 1977, the Regional Passport Office sent her an order impounding it, offering no reasons—

¹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248 (India).

² The Passports Act, No. 15 of 1967, 10(3)(c) (India).

just a vague mention of "public interest." When she sought an explanation, the government's response was almost brazen: they claimed the reasons could not be disclosed in "the interests of the general public."

She did not get a chance to respond or learn what she had allegedly done wrong. Her passport was simply taken away. So, she approached the Supreme Court under Article 32, arguing that this violated her fundamental rights, namely her right to equality under Article 14, her freedom of expression under Article 19(1)(a), her right to travel and practice her profession under Article 19(1)(g), and most importantly, her right to personal liberty under Article 21.

The case posed a crucial question in Indian constitutionalism: can the State take away a person's liberty using any procedure it chooses, simply because it has passed a law allowing it?

III. THE SHADOW OF A.K. GOPALAN CASE

In 1950, in *A.K. Gopalan v. State of Madras*³, the Supreme Court effectively gave the State a blank check when it came to personal liberty. The Court ruled that as long as Parliament enacted a law outlining a procedure for detention or deprivation of liberty, Article 21 was satisfied, regardless of whether that procedure was fair or reasonable. The term "law" in "procedure established by law" simply referred to any statute. How oppressive or arbitrary the procedure was, it did not matter.

The Court also separated Articles 14, 19, and 21 completely. A law could be examined under one article but not the others. The State could take away liberty under Article 21 through a procedure that would fail scrutiny under Article 19's reasonableness standards, and courts would ignore it.

For nearly thirty years, this interpretation left individuals vulnerable to unchecked state power.

IV. WHAT THE COURT DECIDED

The seven-judge bench dismantled *Gopalan* with clear and strong reasoning.

Justice P.N. Bhagwati, writing for the majority, held that "personal liberty" in Article 21 must be interpreted broadly.⁴ The right to travel abroad forms a part of personal liberty. Therefore,

³ *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27 (India).

⁴ *Maneka Gandhi*, (1978) 1 SCC 248, 56 (Bhagwati, J.).

impounding a passport was not simply a minor administrative action; it was a loss of a fundamental freedom.

But the more significant ruling concerned procedure. The Court stated that "procedure established by law" cannot just mean any procedure the legislature creates. The procedure must be fair, just and reasonable.⁵ If it is arbitrary or oppressive, it is not a procedure at all according to the Constitution. This marked the introduction of substantive due process into Indian law—something the framers avoided by opting for "procedure established by law" instead of the American "due process of law."

The Court also broke down the compartments between Articles 14, 19, and 21. These provisions are interconnected; a law that deprives someone of personal liberty must pass the tests of non-arbitrariness (Article 14), reasonableness (Article 19), and fair procedure (Article 21).⁶ This is known as the "golden triangle" of fundamental rights and became a phrase that has become common in Indian constitutional law.

Finally, the Court held that natural justice, specifically the right to be heard, is part of Article 21.⁷ Maneka Gandhi was never given a chance to respond to whatever accusation led to her passport being impounded. This alone made the action constitutionally invalid.

V. WHY IT MATTERS

The impact of this judgment has been remarkable.

In the years that followed, Article 21 became the most influential provision in the Constitution. Courts began interpreting the "right to life and personal liberty" to include rights like livelihood⁸, health, education, and a clean environment. Eventually, in 2017, it even included the right to privacy (*K.S. Puttaswamy v. Union of India*)⁹. None of this would have been possible without the interpretive groundwork that Maneka Gandhi laid.

⁵ *Maneka Gandhi*, (1978) 1 SCC 248, 56 (Bhagwati, J.).

⁶ *Id.* 7 (Beg, C.J.).

⁷ *Id.* 72 (Bhagwati, J.).

⁸ *Olga Tellis v. Bombay Municipal Corp.*, (1985) 3 SCC 545 (India).

⁹ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

More broadly, the judgment changed the relationship between individuals and the State. It clarified that power must be exercised reasonably and that people cannot be treated as subjects but must be seen as rights-holders who deserve respect. The government could not simply rely on legislation to justify injustice.

VI. A NOTE OF HONEST CRITIQUE

The judgment is not without its critics, and it is important to engage with these views. The Constitution's framers intentionally chose "procedure established by law" over "due process of law." They were cautious about giving unelected judges too much power to overturn laws on vague notions of "fairness." By reading substantive fairness into procedural law, the Court in *Maneka Gandhi* effectively reversed this choice through its interpretation. Some legal scholars argue this raises legitimate concerns about judicial overreach, suggesting that courts are doing through interpretation what only constitutional amendments should accomplish.¹⁰

There is also the practical issue that the broadened Article 21 has sometimes been applied inconsistently. Courts have occasionally filled legislative gaps through judicial creativity instead of striking down truly unconstitutional laws.

These criticisms are valid, but they do not diminish the judgment's fundamental achievement.

VII. CONCLUSION

At its heart, *Maneka Gandhi v. Union of India* addresses a simple but profound idea: in a constitutional democracy, the government cannot act arbitrarily toward people and claim it is lawful. Liberty is not a privilege the State can grant or revoke at will. It belongs to the individual, and any attempts to limit it must be fair, just, and reasonable and not merely legally valid.

This principle, which may seem obvious today, was not a guarantee before January 25, 1978. It took a woman whose passport was seized and a Court willing to look beyond the law's letter to its spirit to make this a constitutional reality.

¹⁰ See M.P. JAIN, INDIAN CONSTITUTIONAL LAW 1337–41 (8th ed. 2018).