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## ARTICLE 21 AND THE EXPANSION OF SOCIO-ECONOMIC RIGHTS

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### INTRODUCTION

Few provisions in constitutional law have had as dynamic a journey as Article 21 of the Indian Constitution. On its face, the provision is spare and almost Spartan in its language: "No person shall be deprived of his life or personal liberty except according to procedure established by law."<sup>1</sup> And yet, over the course of seven decades of judicial interpretation, this single sentence has become the most expansive source of rights in the Indian constitutional order. Courts have read into it the right to livelihood, the right to health, the right to education, the right to a clean environment, and dozens of other entitlements that one would ordinarily associate with a directive principle or a welfare statute rather than a fundamental right.

This article examines how Article 21 came to absorb socio-economic concerns, what the structural logic of that absorption has been, and what questions it raises about the nature of constitutional adjudication in India.

### THE ORIGINAL SCHEME: CIVIL AND POLITICAL RIGHTS AS THE DOMINANT FRAME

The framers of the Indian Constitution made a deliberate structural choice. Fundamental rights, housed in Part III, were to be justiciable. Directive principles of state policy, in Part IV, were to be non-justiciable guides for the legislature and executive. Socio-economic entitlements like the right to work, the right to education, and the right to public health were placed squarely in Part IV.<sup>2</sup> This division was not accidental. It reflected a mid-twentieth century consensus, shaped in part by the debates surrounding the Universal Declaration of Human Rights, that

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<sup>1</sup> India Const. art. 21.

<sup>2</sup> India Const. arts. 38, 39, 41, 42, 47.

negative liberties were more suitable for immediate judicial enforcement than positive socio-economic claims, which required resources and legislative deliberation.

Article 21 was initially read in this spirit. In *A.K. Gopalan v. State of Madras*,<sup>3</sup> the Supreme Court adopted a narrow, positivist reading of the provision. The majority held that "procedure established by law" simply meant any procedure prescribed by a validly enacted law, and that the different Articles in Part III operated in silos. The right to life was not contaminated, so to speak, by the content of other rights or by overarching principles of reasonableness and natural justice. For nearly three decades, this remained the governing framework.

### THE MANEKA GANDHI MOMENT AND ITS IMPLICATIONS

The turning point came in 1978 with *Maneka Gandhi v. Union of India*.<sup>4</sup> The case arose from the impoundment of the petitioner's passport under the Passports Act, 1967, without giving her any reasons or opportunity to be heard. The Supreme Court, in a landmark judgment, held that the word "procedure" in Article 21 could not mean just any procedure. It had to be a procedure that was fair, just, and reasonable. The Court also broke down the Gopalan silos, holding that Articles 14, 19, and 21 were not isolated compartments but interacted with and enriched each other.

The philosophical consequences of *Maneka Gandhi* were immense. Once the Court accepted that the content of the right to life was not fixed by positive law but by an evolving standard of fairness, the door was opened to read into Article 21 whatever the Court believed to be essential to a dignified human existence. As Anup Surendranath has noted, the post-*Maneka Gandhi* jurisprudence represents a judicial willingness to treat the right to life as substantively open-ended, capable of absorbing new claims as social understandings evolve.<sup>5</sup> This is both the strength and the doctrinal vulnerability of the Article 21 enterprise.

### THE SOCIO-ECONOMIC TURN: LIVELIHOOD, HEALTH, AND EDUCATION

The 1980s and 1990s saw the Supreme Court undertaking a dramatic expansion of Article 21. Three lines of cases deserve particular attention.

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

<sup>4</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>5</sup> Anup Surendranath, *Capital Punishment and the Constitutional Culture of India*, in *The Oxford Handbook of the Indian Constitution* 693, 695-97 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016).

**The Right to Livelihood.** In *Olga Tellis v. Bombay Municipal Corporation*,<sup>6</sup> the Court considered the eviction of pavement dwellers from Bombay's footpaths. The petitioners argued that the eviction, without alternative arrangements, would destroy their means of livelihood. The Court accepted the argument in principle, holding that the right to life under Article 21 included the right to livelihood because no person could live without the means of living. This was a significant jurisprudential move: the Court tied a socio-economic entitlement directly to the civil right to life rather than treating it as a directive principle aspiration.

**The Right to Health.** In *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*,<sup>7</sup> the Court addressed a situation where a worker had been turned away from multiple government hospitals despite suffering serious injuries. Reading Article 21 in conjunction with the directive principle on public health, the Court held that the state was obligated to provide adequate medical facilities and that its failure to do so amounted to a violation of the right to life.

**The Right to Education.** In *Unni Krishnan J.P. v. State of Andhra Pradesh*,<sup>8</sup> the Court held that the right to education, at least up to the age of fourteen, flowed from Article 21. This reading was eventually codified through the Eighty-Sixth Amendment in 2002 and the insertion of Article 21-A, which makes free and compulsory education for children between six and fourteen a standalone fundamental right. The judicial expansion thus preceded and arguably precipitated the constitutional amendment.

## THE STRUCTURAL LOGIC: DIGNITARY INTERPRETATION AND PURPOSIVE READING

What is the interpretive logic that holds these expansions together? At its core, the Court has relied on a dignitary conception of life. The idea, articulated across several judgments, is that "life" in Article 21 does not mean mere animal existence. It means a life of dignity, and dignity requires minimum conditions of material welfare. Without food, shelter, healthcare, and education, the formal liberty protected by Article 21 becomes meaningless.

Abhinav Chandrachud has examined how this dignitary logic operates alongside a concern for institutional legitimacy.<sup>9</sup> He observes that Indian courts have often been careful to frame socio-

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<sup>6</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

<sup>7</sup> *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37.

<sup>8</sup> *Unni Krishnan J.P. v. State of Andhra Pradesh*, AIR 1993 SC 2178.

<sup>9</sup> Abhinav Chandrachud, *Due Process of Law*, in *The Oxford Handbook of the Indian Constitution* 491, 503-07 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016).

economic rights as derivations from existing fundamental rights rather than as freestanding constitutional mandates, perhaps because this approach allows the courts to intervene while appearing to stay within the traditional bounds of constitutional interpretation. The right to education becomes a facet of the right to life; the right to health becomes a component of personal liberty. The directive principles are invoked as interpretive aids but not as independently justiciable rights.

This technique has a certain elegance, but it also creates tensions. If socio-economic rights are simply aspects of Article 21, their content and enforceability depend on how a court defines the minimum conditions of a dignified life. This is inevitably a value judgment, and courts have not always been consistent in how they draw the line.

### THE ROLE OF PUBLIC INTEREST LITIGATION

Any account of Article 21's socio-economic expansion would be incomplete without addressing the role of public interest litigation. The relaxation of standing rules from the late 1970s onward meant that citizens and civil society groups could approach the Supreme Court directly on behalf of vulnerable populations who lacked the resources or knowledge to litigate on their own behalf. This procedural transformation had profound substantive consequences. Surendranath has written about the way PIL created a new interface between the judiciary and executive governance, with courts issuing detailed directions on matters ranging from bonded labor to the right to food.<sup>10</sup> The *People's Union for Civil Liberties v. Union of India* litigation on the right to food is perhaps the most ambitious example. Beginning in 2001, the Supreme Court issued a series of interim orders giving enforceable content to the right to food as a component of Article 21, directing state governments to implement specific welfare schemes and appointing commissioners to monitor compliance.<sup>11</sup>

This kind of supervisory jurisdiction pushes Article 21 adjudication toward something closer to administrative governance. The Court is not merely declaring rights but managing their implementation over years and even decades.

### CRITICAL PERSPECTIVES: LIMITS OF JUDICIALIZATION

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<sup>10</sup> Anup Surendranath, *Capital Punishment and the Constitutional Culture of India*, in *The Oxford Handbook of the Indian Constitution* 693, 700-02 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016).

<sup>11</sup> *People's Union for Civil Liberties v. Union of India*, (2001) 7 SCC 1 (right to food case, interim orders from 2001 onward).

The expansion of Article 21 into socio-economic terrain has attracted significant scholarly criticism, and it is worth taking those criticisms seriously.

One line of critique concerns institutional competence. Courts are not well placed to make the resource allocation decisions that socio-economic rights implicate. When a court directs that every government hospital must maintain a certain standard of care, it is making a budgetary choice that affects the relative priority given to different public goods. Legislatures and executives, which are accountable to voters and have access to technical expertise, are better equipped to make such tradeoffs.

Chandrachud has raised a related concern about the coherence of the constitutional text.<sup>12</sup> The framers' decision to place socio-economic entitlements in Part IV as non-justiciable directives was a considered one. Judicial expansion of Article 21 has, in effect, partially overridden that choice. There is something uncomfortable about courts using an interpretive technique to achieve an outcome that the constitutional text deliberately withheld.

A third concern is the gap between rights on paper and their practical enforcement. While the Supreme Court has recognized a broad range of socio-economic rights under Article 21, the actual delivery of healthcare, education, and livelihood protections remains deeply uneven across states and across social groups. Rights declared in Delhi are not always felt in Jharkhand or Odisha.

## **CONSTITUTIONAL AMENDMENTS AND THE FUTURE TRAJECTORY**

The Eighty-Sixth Amendment's insertion of Article 21-A suggests that one way to consolidate judicially recognized socio-economic rights is to give them independent textual foundations. This removes the doctrinal awkwardness of deriving welfare entitlements from a civil liberties provision and places them on firmer constitutional ground. It also clarifies the legislature's obligation and creates a more transparent basis for enforcement.

Whether similar amendments are appropriate or desirable for health or livelihood rights is a political and constitutional question that courts cannot answer on their own. What seems clear is that the Indian experience demonstrates both the possibilities and the limits of using a general right-to-life provision as the vehicle for social transformation. The creativity of Article 21 jurisprudence is impressive; its consistency and follow-through are more uneven.

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<sup>12</sup> Abhinav Chandrachud, *Due Process of Law*, in *The Oxford Handbook of the Indian Constitution* 491, 510-12 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016).

## CONCLUSION

Article 21 has traveled an extraordinary distance from the narrow positivism of *A.K. Gopalan* to the expansive dignitary jurisprudence of the present day. Through a series of bold interpretive moves, the Supreme Court has woven socio-economic concerns into the fabric of a provision originally understood as a procedural safeguard against arbitrary state action. The result is a right to life that now encompasses livelihood, health, education, environment, and shelter, among other entitlements.

As Surendranath and Chandrachud have both shown in their respective analyses, this expansion reflects genuine judicial concern for the material conditions of vulnerable populations, but it also raises persistent questions about institutional role, textual fidelity, and the gap between constitutional aspiration and ground reality.<sup>13</sup> The challenge for Indian constitutionalism is not to roll back the gains of Article 21 jurisprudence but to build institutional frameworks, legislative supports, and monitoring mechanisms that give those rights genuine traction in the lives of people who need them most.

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<sup>13</sup> Anup Surendranath, *Capital Punishment and the Constitutional Culture of India*, in *The Oxford Handbook of the Indian Constitution* 693 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016); Abhinav Chandrachud, *Due Process of Law*, in *The Oxford Handbook of the Indian Constitution* 491 (Sujit Choudhry, Madhav Khosla & Pratap Bhanu Mehta eds., 2016).