

Article 21: A Lifeline to New Rights in A Progressive Society.

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Abstract

India is a developing nation in terms of improving people's quality of life as well as its economy. This is demonstrated by the Indian Constitution, which guarantees the basic right—the right to life—to all people, irrespective of not they are citizens. The concept of natural justice gave rise to the inalienable rights of the human organism. Since everything in the cosmos was made by God or nature, the hypothesis claims that there is order in the universe. According to Justice Krishna Iyer, "Procedure in article 21 means fair and not formal procedure and the law is a reasonable law and not any enacted piece." The scope of the right to life and personal liberty is wide and continues to expand. This research paper focuses on the ambit of Article 21 and its utility in the present progressive society.

Keywords: Article 21, Right to life, Right to Liberty, Constitutional provisions, Fair procedure.

1. Introduction

India is a developing nation in terms of improving people's quality of life as well as its economy. This is demonstrated by the Indian Constitution, which guarantees the basic right—the right to life—to all people, irrespective of not they are citizens. One of the most significant rights granted to individuals is this one, which cannot be restricted, not even under dire circumstances.

The Indian Supreme Court has referred to this privilege as the "Heart of Fundamental Rights". It is a right that encompasses not only a person's ability to survive but also their capacity to lead a full life filled with meaning, dignity, and education. The loveliest aspect of this article is that it is not a rigid guideline; rather, it gradually changes as time goes on.

The concept of natural justice gave rise to the inalienable rights of the human organism. Since everything in the cosmos was made by God or nature, the hypothesis claims that there is order in the universe. Each is unique and subject to the legal philosophy of nature to reach its maximum potential. Anything that restricts homo calibre, or hinders their success, violates the constabulary of nature¹.

It has been said that fundamental rights are the essence of our Constitution. These rights are universally recognised as necessary for societal progress and human existence. It guarantees civil liberties so that every Indian can live in love and peace as fellow citizens. They include personal advantages that are widely recognised in the most liberal democracies, including the right to constitutional remedies, equality before the law, freedom of speech and expression, freedom to spread any religion, and protection of life and

¹ William C. Harvard, The World Book Encyclopaedia 469 (1972).

individual liberty. These rights, which are outlined in Part III of the Constitution, apply to anyone of any race, national origin, caste, creed, religion, or sex.

Article 21's historical growth mirrors the history of India's personal liberty and right to life. Originating as a bulwark against capricious governmental action, Article 21 has seen a metamorphosis influenced by legal, social, and historical advancements. An outline of its development is provided below:

The right to life and personal liberty was acknowledged as a basic human right necessary for each person's dignity and well-being during the constitutional debates that framed the Indian Constitution. The wording and scope of Article 21 were thoroughly discussed by the draughting committee in order to guarantee strong protection against governmental meddling. Early Judicial Interpretation: The Indian court was instrumental in defining the parameters of Article 21 and providing interpretations in the early years after independence. The Supreme Court established the idea that Article 21 covers both the right to bodily life and the right to live with dignity in its seminal rulings. In the Maneka Gandhi case, the most significant and productive aspect was the reinterpretation of the term "procedure established by law"¹². It asserts that a rational, reasonable, and non-arbitrary procedure is necessary. According to Justice Krishna Iyer, "Procedure in article 21 means fair and not formal procedure and the law is a reasonable law and not any enacted piece."

2. Ingredients Of Article 21:

A. Person

The bare language of this article clearly states that here person means all persons and is not confined to the citizens only. Noncitizens can also claim this right under Article 21 if that impacts their right to life. To elaborate on this term, the General Clauses Act section 3(42) also states that a person will include a juristic person, as well as include deity, gurudwara, etc.

B. Deprived

This article came into play only when the person is deprived of the right to life. Here, depredation doesn't mean mere restrictions; it means the absolute loss of that right. The Supreme Court, in various rulings, has suggested that deprivation does not mean that a person cannot approach before head to the court but there must be some tangible and direct threat to the right of the individual.

C. Life

According to the New Encyclopaedia Britannica, "life" refers to a system that can carry out several tasks, including breathing, movement, food, exercise, hugging, commitment, development, reproduction, and being responsive to outside stimuli.

By section 45 of the Indian Penal Code, 1860, life is defined as a person's lifespan. Consequently, the idea of life needs to be interpreted as lifeless vengeance. Here, "right" alludes to the "birthright" assertion; hence, "right to life" means that one can live one's own life by possessing one's birthright. The right to life is the foundation of basic rights since it is based on all other rights of the individual. Even if the other rights listed in Part III of the Indian Constitution are essential, they are meaningless without the right to life. Due to the rule of nature, everyone has an underlying right to life.

D. Personal liberty

The disagreement among scholars on the word "personal liberty" is evident. Personal liberty has been interpreted in a very limited and constrictive way by certain academics. According to Dicey, "the right to personal liberty means that one should not be subject to imprisonment, arrest, or other physical restraint in any manner that does not accept legal justification²." Blackstone asserted freedom of movement to be the essence of individual liberty, stating that "personal liberty lies within the power of control, to fix the situation or to move a person to any place that can be done directly without any imprisonment or restraint unless by due course of law³."

Through a series of authoritative rulings by the Apex Court, Article 21 has advanced significantly in the case of *A.K. Gopalan v. the State of Madras*, AIR 1950 SC 27 (Preventive Detention Act, 1950). The Court limited the definition and application of "personal liberty" in this case, ruling that it solely refers to freedom of the physical body and that Articles 19 (1) (d) and 21 must be interpreted independently. A wide range of aspects of individual freedom are included in the vast and complex concept of personal liberty.

E. Procedure established by law

The phrase "procedure established by law" was interpreted by the Court as meaning "there need be law, and the procedure should be followed." Article 21 is a safeguard against administrative action alone, not against parliamentary entities, it is said. The term law here means state-made or enacted laws, neither law equivalent nor in an abstract sense. Article 21 uses the phrase "procedure established by law" rather than "Due Process of Law" because the latter is essentially a substantive due process. Additionally, procedural due process covers both law and procedure, meaning that both must be reasonable, that is, founded on the ideas of natural justice. The phrase "Due process of law" has been dropped in India due to its conceptual vagueness and indefiniteness.

The word "procedure established by law" has been reinterpreted, which is the most important and fruitful part of the *Maneka Gandhi* case. It states that a reasonable, logical, and non-arbitrary process is required. Justice Krishna Iyer commented, "Procedure in article 21 means fair and not formal procedure, and the law is a reasonable law and not any enacted piece."

Extension To The Term "Right To Life"

The parameters or the importance of this article changed when the Supreme Court acknowledged that the right to life means 'Human Dignity', not the mere 'Animal Existence'.

1. Education is a right under Article 21:

The right to education is regarded as the third eye of man, without which no one can live a respectable, honourable, and good life. Previously, the state's policy included the right to education as one of its guiding principles.

2. Article 21 guarantees the right to a living:

No one can exist without nourishment, hence, the right to livelihood follows from the right to life. It would be the simplest method to deny someone their right to life, and they would therefore lose their livelihood, if the right to livelihood were not seen as an essential component or part of the right to life. Rejecting

² A.V. Dicey, *Law of the Constitution* 207 (Oxford University Press, 1st edn., 1961)

³ Blackstone, *Commentaries on the Laws of England* 134 (Clarendon Press, Oxford, 1844).

livelihoods means not just denying them useful content and a purposeful existence, but also rendering life impossible.

3. Article 21 guarantees the right to a speedy trial and justice:

Regarding the denial of prompt justice, the court voiced its worry over case resolution delays. The relevant authorities were instructed to take immediate action to address the issue before it completely spirals out of control. 63. Without a timely trial, a procedural legislation would be deemed invalid. Numerous undertrial inmates who had spent years in Bihar's jails awaiting trial filed a petition for a writ of habeas corpus. It was believed that the right to a swift trial constituted an inherent guarantee of both the right to personal liberty and the right to life.

4. Article 21 guarantees the right to free legal assistance:

The term "law," which appears in Article 21 of the Indian Constitution, ought to be a legitimate piece of legislation, making it just, equitable, and rational. 74. Anyone accused of any crime has the right to receive legal help if they cannot afford legal representation. It is necessary to provide more counsel so that there is enough time and space to prepare the case. If these guarantees of a fair trial were violated, the trial and conviction would be deemed unlawful.

5. Right to health and support for medication:

Naturally, the right to life cannot be upheld if everyone is denied access to adequate healthcare. It is the most basic necessity for leading a full life. However, occasionally medical professionals and organisations put off helping the weak because they are worried by drawn-out procedures and complications, especially in medico-legal matters. In the 1989 case of *Pt. In Parmanand Katara v. Union of India*, it was acknowledged that Article 21 gives the preservation of human life great importance. All medical personnel must thus provide all patients with immediate medical assistance, free from any legal restrictions. Additionally, no medical expert should be assaulted for any examination, and they won't have to prove anything in court unless necessary.

6. Since human life is valuable, the right to die is not included in the Article 21 right to life:

The Supreme Court has demonstrated a significant shift in perspective. According to a previous ruling in *Gian Kaur v. State of Punjab*⁸⁰, which addressed the legality of Section 309 of the I.P.C., penalising suicide attempts does not contravene Article 21. The Court overturned the previous ruling in *P. Rathinam's* case⁸¹ and determined that the criminalisation of suicide attempts does not violate Article 21 of the Constitution because the "right to life" does not include the "right to die," and the "extinction of life" is not included in the "protection of life."

7. Article 21 includes the Right to Privacy:

In *Kharak Singh v. State of Tamil Nadu*, the matter was brought up for the first time. According to Justice Subba Rao's minority ruling, the manifestation of personal liberty is a prerequisite for the right to privacy. The route for the subsequent growth was cleared by this minority ruling. The Indian Constitution's Article 21 guarantees the right to life and personal liberty, and the Supreme Court noted in *R. Rajgopal v. State of Tamil Nadu*⁹⁰ that the right to privacy is simply the "right to be left alone." The legitimacy of Aadhaar was also questioned regarding privacy. The Supreme Court's ruling on the petition of Justice K.S. Puttaswamy⁹¹ on August 24, 2017, which maintains that Articles 14, 19, and 21 of the Indian Constitution guarantee the right to privacy as a fundamental constitutional right, was pivotal to the rights of Indian citizens in the twenty-first century. This ruling cleared the path for a significant and progressive interpretation of civil-political rights in addition to overturning some of the previous rulings.

8. Internet Rights

Due to the increased availability of information, students now consider having access to the Internet to be a necessity. In the matter of *R.K. Faheema Shirin v. State of the Hon'ble High Court* upheld the right to internet access in Kerala and other states.

Part of the right to education and the right to privacy are guaranteed by Articles 21 and 21A of the Indian Constitution. Having access to the internet not only increases pupils' chances of acquiring knowledge but also raises educational standards. Furthermore, in *Anuradha Bhasin vs. Union of India and Ors.*, the Supreme Court acknowledged that the Constitution's protections for freedom under Article 19(1)(g) and Article 19(1)(a) apply to internet use.

3. Conclusion

The scope of the right to life and personal liberty is wide and continues to expand. The Supreme Court of India was crucial in interpreting Article 21 of the Constitution in several cases, as was previously mentioned. Through this expansion of the state's and its officials' obligations, responsibilities, and duties, the Supreme Court has completely executed its proactive and illuminating judicial procedure. Thus, it becomes evident that the Court may be able to enforce the rights guaranteed by Article 21 of the Constitution over time while interpreting it. It may also be able to add additional rights adjacently or consider the rights as inherent provisions under Article 21 of the Indian Constitution, which would make the article's scope extremely broad and varied.