

Right to Life and Personal Liberty under Constitution of India: A Legal Overlook of Recent Development

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ABSTRACT

In every organized society, the rights as guaranteed by the established law to be measured as an individual are not guaranteed by meeting the needs of the animal alone. A person's right to life and personal freedom is fundamental to their existence. Its broader meaning encompasses all essential needs for survival, without which one could not possibly be able to exist. The concept of "right to life" encompasses much more than just continuing to breathe; it has many different meanings and rights. In order to fully understand the meaning of the rights to life and personal liberty, this paper will analyze the constitutional perspective and expand the scope of Article 21. This study also aims to review and evaluate the most recent ruling from the Apex Court in *Maneka Gandhi v. Union of India*, or *Vishaka v. State of Rajasthan*, or *Aruna Shanbaugh v. Union of India*. By interfering in the process of interpreting the rights contained in Article 21, the study's scope has been expanded.

Keywords: Article 21, Constitution of India, Right to Life and Personal Liberty, Constitutional Remedies, Right to Privacy, procedure established by law.

Introduction

Natural Justice is a great humanizing principle intended to invest law with fairness and to secure justice. 'Personal Liberty' includes many freedoms like freedom to move freely, freedom from physical restraint, freedom to speak, write, worship etc. It also includes right to livelihood, and to live in healthy environment. The term 'personal liberty' has been rightly defined by Justice Das in **A.K. Gopalan v. State of Madras** as follows:

"The Constitution in Article 21 has used the words personal liberty which have definite connotation in law. Personal liberty does not mean only liberty of that person but it means liberty or the right attached to the person (jus personam)". Different interpretations have been given to the expression 'personal liberty'."

Right to life and personal liberty is the most cherished and pivotal fundamental human rights around which other rights of the individual revolve and, therefore, the study assumes great significance. Right to life has been considered as the most fundamental of all human rights. Similarly, 'right to life' under Article 21 of the Indian Constitution is supreme amongst all fundamental rights, enshrined in Part III of the Constitution of India.¹ Protection of Life and Personal Liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law². The significance of the term "procedure established by law" was principally examined and construed by the Hon'ble Supreme Court of India in **A.K. Gopalan v. State of Madras**³.

Judicial Roadmap-

Right to live with human dignity

A trend of narrow interpretation of the above terms was set in by the Supreme Court in **A. K. Gopalan case**⁴ which continued more or less till **Kharak Singh case**⁵ in which one of the points for consideration was whether right to privacy was a part of personal liberty. The Apex Court has given new dimension of interpretation from the **Maneka Gandhi case**⁶. The Court held that the right to live is not merely a physical right but includes within its ambit the right to live with human dignity. On the same principle the Supreme Court in **Sunil Batra v. Delhi Administration**⁷ reiterated with the approval the above observations and held that the right to life included the right to lead a healthy life so as to enjoy all faculties of the human body in their prime conditions.

Elaborating the same view, the Supreme Court in **Francis Coralie v. Union Territory of Delhi**⁸ observed:

“The right to live includes the right to live with human dignity and all that goes along with it, viz., 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 mingling with fellow human beings and must include the right to basic necessities the basic necessities of life and also the right to carry on functions and activities as constitute the bare minimum expression of human self.”

This interpretation of the word ‘life’ has been reiterated by the Supreme Court in later cases in **Vikram Deo Singh Tomar v. State of Bihar**⁹, the Supreme Court held that under Article 21 every person is entitled to a quality of life consistent with the human personality. In another case **Bandhua Mukti Morcha v. Union of India**¹⁰, the Supreme Court held that Article 21 assures the right to live with human dignity free and the Court gave it an expanded interpretation. Bhagwati J. observed that:

“It is the fundamental right of everyone in this country... to live with human dignity free from exploitation. This right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 and at the least, therefore, it must include protection of the health and strength of workers, men and women, and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and humane conditions of work and maternity relief.

In the case of **Aruna Shanbaugh v. Union of India**,¹¹ a question arose whether right to life includes right to die. In this case, the concept of euthanasia application in the hospitals was clarified. The Supreme Court of India held that passive euthanasia can be practiced but only on case-by-case basis and active euthanasia still remains illegal.

Article 21 includes Right to Shelter- In **Chameli Singh v. State of U.P.**¹² - Where in A Bench of three Judges of Supreme Court had considered and held that the right to shelter is a fundamental right available to every citizen and it was read into Article 21 of the Constitution of India as encompassing within its ambits and the right to shelter to make the right to life more meaningful.

Article 21 includes Right to Medical Care-In **Parmananda Katara v. Union of India**¹³ the Supreme Court has very specifically clarified that preservation of life is of paramount importance. Similarly, in **Paschim Banga Khet Mazdoor Samiti v State of West Bengal**¹⁴ the Supreme Court awarded compensation to the victims aggrieved by the services provided by the government hospitals.

Article 21 includes Right to Education- Right to education is considered as third eye of man without which no one can lead good, decent and dignified life. Earlier right to education was a part of directive principles of state policy.¹⁵ However as per the changing needs of society Supreme Court in **Mohini Jain v. State of Karnataka**¹⁶ and **Unni Krishna v. State of Andhra Pradesh**¹⁷ rule that right to education , as a guaranteed fundamental right , thus included under the right to life because it directly influence the mental and physical capacity, and also responsible for the individual growth in society.¹⁸

Article 21 includes Right to Livelihood- The right to life naturally leads to the right to a livelihood as no one can survive without food. In **Re Sant Ram**,¹⁹ a case arose before the Maneka Gandhi case, where the Supreme Court ruled that the right to livelihood would not fall within the expression 'life' in Article 21. The Court said curtly:

“The Right to livelihood would be included in the freedoms enumerated in Art.19, or even in Art.16, in a limited sense. But the language of Art.21 cannot be pressed into aid of the argument that the word ‘life’ in Art. 21 includes ‘livelihood’ also.”

Right to livelihood has been declared as an integral facet of the right to life.²⁰The Supreme Court in the case of **Olga Tellis v. Bombay Municipal Corporation**²¹ held that the concept of “right to life and personal liberty” guaranteed under Article 21 of the Constitution includes the “right to live with dignity” which in turn includes right to livelihood.

Right against Sexual Harassment at Workplace

Sexual harassment at workplace of women has been held by the Supreme Court to be violative of the Right to Life contained in Art. 21. In **Vishakha v. State of Rajasthan**²², the Supreme Court declared sexual harassment at the workplace to violate the right to equality, life and liberty. Therefore, the court observed that:

“The meaning and content of the fundamental rights guaranteed in the Constitution of India are of sufficient amplitude to compass all the facets of gender equality including prevention of sexual harassment or abuse. “

Right to life under Article 21 does not include right to die- Human life is precious One. The Supreme Court has shown radical change in its view. In earlier view **Gian Kaur v. State of Punjab**²³, while deciding the validity of Sec. 309 of I.P.C, it was held that punishing the attempt to commit suicide does not violate the article 21. The Court overruled the earlier view which was taken in **P. Rathinam’s case**²⁴ and held that “right to life” does not include “right to die” and the “extinction of life” is not included in “protection of life”.

Right to Reputation- Reputation is an important part of one’s life. It is one of the finer graces of human civilization that makes life worth living. The Supreme Court referring to D.F. Marion v. Minnie Davis in **Smt. Kiran Bedi v. Committee of Inquiry**²⁵ held that

“good reputation was an element of personal security and was protected by the Constitution, equally with the right to the enjoyment of life, liberty, and property.”

Right to Social Security and Protection of Family

Right to life covers within its ambit the right to social security and protection of the family. K. Ramaswamy J., in **Calcutta Electricity Supply Corporation (India) Ltd. v. Subhash Chandra Bose**²⁶, held that right to social and economic justice is a fundamental right under Art. 21. The learned judge explained:

“right to life and dignity of a person and status without means were cosmetic rights. Socio-economic rights were, therefore, basic aspirations for meaning the right to life and that Right to Social Security and Protection of Family were an integral part of the right to life.”

In **NHRC v. State of Arunachal Pradesh (Chakmas Case)**²⁷, the SC said that the state is bound to protect the life and liberty of every human being, be he a citizen or otherwise. Further, it cannot permit anybody or a group of persons to threaten another person or group of persons.

Further, **Surjit Kumar v. State of UP**.²⁸ is a crucial a case in which the protection against honour killings is extended by Article 21. The Allahabad High Court's division bench took significant notice of the harassment, abuse, and murder of an individual who wished to marry into a different caste or group.

Right to Know- Holding that the right to life has reached new dimensions and urgency the Supreme Court in **R P Ltd. v. Proprietors Indian Express Newspapers, Bombay Pvt. Ltd.**²⁹, observed that if democracy had to function effectively, people must have the right to know and to obtain the conduct of affairs of the state.

In **Essar Oil Ltd. v. Halar Utkarsh Samiti**,³⁰ the Supreme Court said that there was a strong link between Art.21 and the right to know, particularly where secret government decisions may affect health, life, and livelihood. And the Apex Court in **Reliance Petrochemicals Ltd. v. Proprietors of Indian Express Newspapers**³¹ ruled that the citizens who had been made responsible for protecting the environment had a right to know the government proposal.

Tapping of Telephone

Emanating from the right to privacy is the question of tapping of the telephone.

In **RM Malkani v. State of Maharashtra**³², the Supreme Court held that Courts would protect the telephonic conversation of an innocent citizen against wrongful or high handed' interference by tapping the conversation.

Telephone tapping is permissible in India under **Section 5(2) of the Telegraph Act, 1885**. The Section lays down the circumstances and grounds when an order for tapping a telephone may be passed, but no procedure for making the order is laid down therein.

The Supreme Court in **PUCL v. Union of India**³³ held that:

“right to privacy is a part of the right to ‘life’ and ‘personal liberty’ enshrined under Article 21 of the Constitution. Once the facts in a given case constitute a right to privacy, Article 21 is attracted.”.

Right to Speedy Trial

In **Hussainara Khatoon v. Home Secretary, State of Bihar**³⁴ the Supreme Court observed that an alarming number of men, women and children were kept in prisons for years awaiting trial in courts of law.

Right to Fair Trial

The free and fair trial has been said to be the sine qua non of Article 21. The Supreme Court in **Zahira Habibullah Sheikh v. State of Gujarat**³⁵ said that the right to free and fair trial to the accused and the victims, their family members, and relatives and society at large.

Conclusion

We have been interpreting Maneka's significance for Article 21 in light of the Gopalan judgment for far too long. We should question whether Maneka goes far enough to effectively defend the content of the right to life and personal liberty, even while the argument is clearly not to return to the Gopalan stance. The "reasonableness" analysis is inherently flawed as a means of safeguarding the essential elements of Article 21 rights. In terms of socioeconomic, political, and environmental rights, figuring out what constitutes the core is a crucial undertaking that needs well-defined normative underpinnings.

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