

VARIOUS ASPECTS COME UNDER ARTICLE 21 OF THE HUMAN RIGHTS

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ABSTRACT

Article 21 of the Universal Declaration of Human Rights (UDHR) contains several important aspects that underscore the importance of democratic governance and participation. This article focuses primarily on the right to participate in the government of one's country, either directly or through freely chosen representatives. It emphasizes the principle of equal access to public service and the foundation of governmental authority being based on the will of the people, which is to be expressed in periodic and genuine elections with universal and equal suffrage. It ensures that every individual has the right to participate in the government of their country. This participation can be direct or through representatives who are freely chosen by the people. It guarantees that all citizens have equal access to public service positions. This provision aims to eliminate discrimination and promote inclusiveness in public service roles. Emphasizes the need for periodic and genuine elections that reflect the will of the people. Elections must be held by universal and equal suffrage, ensuring that each vote has equal weight and are conducted through a secret ballot or an equivalent free voting process. It establishes that the authority of government derives from the will of the people. This principle is fundamental to maintaining legitimacy and accountability in governance. These aspects collectively affirm the democratic principles of participation, equality, and representation, reinforcing the idea that each individual's voice is important in the governance process. Article 21 thus serves as a cornerstone for democratic societies, advocating inclusive, transparent, and accountable systems.

Keywords: Article, HR, Citizens or non-citizens, FR etc.

1 Historical background

Article 21 guarantees life, liberty and personal rights to all persons (citizens or non-citizens). That no person shall be deprived of his life or personal liberty except according to procedure established by law. The Supreme Court¹ has made it clear that Article 21 applies only to deprivation of life and personal liberty by the State and, thus, to a person whose right to life or personal liberty is violated by a private individual, he needs to find solutions under this. His earthly law.²

In this broader application Article 21 not only implements the rights of the victim but also the rights of the victim in addition. The word life has been given a very broad meaning. The term personal liberty is given a very broad dimension, its deprivation will take place only in accordance with the relevant procedure laid down in German law, but the procedure must be fair, reasonable and fair.

The fundamental right to life and personal liberty under Article 21 of the Indian Constitution has its roots in the Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly in 1948. The declaration recognized inherent dignity and equal and inalienable rights. All members of the human family affirmed the right to life and liberty.

The right to life and personal liberty was first included in the Indian Constitution in its original form in 1950. Since then it has been subject to numerous interpretations by the Indian judiciary, and its scope has expanded to include various aspects of human life.

Scope of Article 21:

The scope of Article 21 has been widely interpreted by the Indian judiciary to include not only the right to physical existence but also the right to lead a meaningful life. The Supreme Court has held that the right to life and personal liberty includes the right to live with dignity, the right to livelihood, the right to a clean environment, the right to health and the right to privacy.

Right to live with dignity:

¹ vidya varma v. Shiv narain, air 1956 sc 108

² prof. kailashr rai, p.no.235 203) air 1963 sc 1295

The right to live with dignity is an essential component of the right to life and personal liberty under Article 21. The Supreme Court has held that the right to dignity includes the right to be treated with dignity and the right to live a life free from discrimination. And harassment.

Right to Livelihood:

The right to livelihood is an essential component of the right to life under Article 21. The Supreme Court has held that the right to livelihood includes the right to work and earn a livelihood, and the government cannot deprive a person of his livelihood. By following due process of law.

Right to clean environment:

The right to a clean environment is a part of the right to life and personal liberty under Article 21. The Supreme Court has held that the right to a healthy environment is essential to the enjoyment of other fundamental rights, such as the right to life and liberty. Right to health.

Right to Health:

Right to health is a fundamental right under Article 21. The Supreme Court has held that the government has a duty to provide adequate medical facilities to its citizens, and that the right to health includes the right to access medical care and the right to one. healthy environment.

Right to Privacy:

Right to privacy is a fundamental right under Article 21. The Supreme Court has held that the right to privacy includes the right to be alone, the right to control the use of one's personal information and the right to live a free life.

Fundamental rights are clearly stated to be the heart and soul of our Constitution. These rights are considered essential for human survival and social progress. It protects civil liberties so that all Indians can live peaceful, harmonious lives as Indian citizens. Article 21 of the Constitution guarantees a right which is the most important for the survival of humanity among all the rights protected in Part III. According to Article 21, "No person shall be deprived of his life or personal liberty except according to procedure established by law." This article has been called the core of our Constitution and the most organic and visionary clause in our living Constitution. Two rights are guaranteed under Article 21³: the right to life and the right to personal liberty. Under this paragraph, both rights are protected, as long as legal requirements are followed. Only when an individual's right to life and personal liberty is violated by the government, as described in Article 21 of the Indian Constitution, does this section of the Indian Constitution apply. Violation of private individual rights does not fall within the scope of Article 21. When the state or one of its representatives takes away someone's personal liberty, such action can only be justified if there is a law, and procedures established, to justify such actions. The law has been carefully considered⁴.

Expansion and evolution of the scope of Article 21 of the Constitution of India with the developing scenario by Nisha Gandhi

In this article, the author discusses the broad scope of Article 21. The author has described Article 21 as the heart of our Constitution. The author also draws on the British Magna Carta (1215)⁵, Article 3 of the UDHR, 1948, Article 2 of the European Convention on Human Rights, 1950 and Article 9(1) of the United Nations Covenant on Civil and Political Rights, 1966 to explain. Have discussed. Importance of Article 21. The author also discusses various rights, like right to livelihood, right to sleep, right to privacy, right to health etc. The author explains the relevance of Article 21 to other fundamental rights. The author has clarified the position of Article 21 after the Maneka Gandhi case.⁶

V.N. Constitution of India by Shukla M.P. Lion

In this book, the author has explained life and personal liberty in the context of America's 5th and 14th Amendments, the Francis Corley Case⁷ and the Bandhu Mukti Morcha Case⁸. In this book the author explains everything from the procedure established by law to the proper procedure. In this book the author also explains the "Golden Triangle" of the Indian Constitution. In this book the author discusses the various rights covered under Article 21. The author also discusses important judgments related to Article 21.

Article 21: Right to life and personal liberty

³ Magna Carta, 1215.

⁴ <https://theamikusqraie.com/aspects-of-article-21-of-the-indian-constitution/>

⁵ Magna Carta, 1215.

⁶ AIR 1978 SC 59.

⁷ AIR 1981 SC 746.

⁸ AIR 1984 SC 802.

Article 21 provides that no person shall be deprived of his life or personal liberty except according to procedure established by law.

Despite being written in a derogatory manner, Article 21 provides fundamental rights to life and personal liberty to everyone and has become an endless source of many other rights. These rights have been given priority status among all other rights by our courts and apply to citizens and non-citizens alike.

Life

The most fundamental of all rights, the right to life, is also the most difficult to define. According to the 5th and 4th Amendments to the U.S. Constitution, the right to life should be used broadly, not merely as a protection against the taking of "life, liberty, or property without due process of law." Field J describes the right to life by saying the following:

The word "life" refers to human existence, not animal existence. The prohibition against lacking it includes every organ and capacity used to enjoy life. Provisions prevent the destruction of any other body parts that the soul uses to communicate with the outside world, such as amputation of an arm or leg, removal of an eye, or removal of any other body part.⁹

Personal freedom

A.K. In *Gopalan v. Union of India*¹⁰, the court held that under Article 21, personal liberty means liberty of the physical body and includes various guarantees under Article 19. In this case, the court applies a narrow interpretation.

Subsequently, in the *Maneka Gandhi* case, the Court held that individual liberty encompasses various aspects of the right, some of which are enumerated in other fundamental rights and protected by Article 19. The court further said that the right to life and personal liberty is not limited only to the liberty of the physical body but also includes the right to live with human dignity.

Law

A.K. In *Gopalan's* case, the court held that under Article 21, law means only state made law and does not include the principle of natural justice.

Subsequently, in the *Maneka Gandhi* case, the court held that under Article 21, law involves the principle of natural justice and is not merely a law made by the state.

Procedure established by law

The 5th Amendment to the US Constitution states that "No person shall be deprived of his life, liberty, or property, without due process of law". "Fair" means fair, impartial and reasonable.

Due process has two horizons: first, substantive due process, and second, procedural due process. Substantive due process means that the substantive provisions of the law should be fair and not arbitrary. Procedural due process means that there must be fair procedures in place. A.K. In *Gopalan's* case, the court rejected this view and held that procedure established by law means procedure prescribed by the legislature.

After that, the *Maneka Gandhi* case court held that the process should be fair, impartial and fair. This makes "due process established by law" synonymous with the "due process" provision in the US Constitution.

Since the *Gopalan* decision, Article 21 is inactive. *Maneka Gandhi's* case gave it new life. Such revival has had a significant impact on current constitutional law. In *PSR Sadhanatham v. Arunachalam*¹¹ the Supreme Court ruled that Article 21 is the procedural Magna Carta of life and liberty. Recent years have seen Article 21 emerge as the American equivalent of "due process". Article 21 received extensive interpretation from the Supreme Court.

Violation of Article 21 of the Indian Constitution

If you feel that your rights have been violated, it is important to seek the assistance of an attorney who can help protect your rights and explore your legal remedies. A lawyer can help you in the following ways:

Evaluate your case: An attorney can review your case and determine whether you have a valid claim. They can analyze the evidence, examine the facts, and provide you with an honest assessment of your case.

Explain your legal rights: A lawyer can explain your legal rights and obligations under the law. They can advise you on the legal options available to you and the possible consequences of pursuing each option.

File a lawsuit: If your rights have been violated, an attorney can file a lawsuit on your behalf. They can draft and file the necessary legal documents and represent you in court.

Negotiate a settlement: An attorney can negotiate a settlement with the opposing party if they feel it is in your best interests. They can work to ensure a fair settlement that will compensate you for any damages or losses you suffered.

⁹ M.P. SINGH, V.N.SHUKLA's CONSTITUTION OF INDIA 210 (2017).

¹⁰ AIR 1950 SC 27.

¹¹ AIR 1980 SC 856.

Advocate for you in court: If your case goes to court, an attorney can represent you and advocate for your rights. They can present evidence, question witnesses, and argue on your behalf.

Protect your interests: A lawyer can protect your interests throughout the legal process. They can make sure that your rights are protected, that your voice is heard, and that you are treated fairly under the law.

In conclusion, a good lawyer like Century Law Firm can play an important role in protecting your rights and remedies. They can give you legal advice, file suits, negotiate settlements, advocate for you in court and protect your interests during the legal process. If you feel that your rights have been violated, it is essential to seek the assistance of a qualified and experienced attorney who can help you navigate the legal system and protect your rights.

Various aspects of Article 21

1. Right to privacy

Right to privacy is an important component of Article 21. Every person has the right to protect the privacy of his personal life. Without their permission, no information on the above matters can be published, whether accurate or not. Justice K.S. In Puttaswamy (Retd.) & Ors. Versus Union of India and Ors.¹², The Supreme Court held that the right to privacy falls within the ambit of Article 21.

Privacy has both positive and negative aspects. In a negative sense, it prevents the state from encroaching on people's rights to life and personal liberty. It imposes a positive duty on the State to take all reasonable steps to protect an individual's right to privacy.

2. Right to a fair trial

The right to a fair trial is not explicitly mentioned in any part of the Constitution, but it is a very essential aspect of Article 21. In Rattiram v. State of Madhya Pradesh¹³, the court held that a fair trial is the heart and soul of criminal jurisprudence. Therefore it is protected under Article 21. P. Sanjeev Rao vs. A.P. In the state.¹⁴ The Supreme Court held that the objective of a fair trial is to provide a fair opportunity to the accused.

3. Right to free legal aid

M.H. In Hoskote v. State of Maharashtra¹⁵, the court held that under Article 21, an accused who cannot avail legal services because of poverty, indigence or financial hardship has the right to free legal aid at the expense of the State. Furthermore, the trial court has a duty to inform an accused who cannot afford legal representation that he has the right to be represented by a lawyer at the expense of the State. If the accused is not informed of his or her right to legal representation, any conviction obtained as a result of such a trial is likely to be vitiated, and such conviction may be vacated.

4. Right to speedy trial

The right to speedy trial is part of the right to life and personal liberty. Speedy and fair trial prevents miscarriage of justice. This right is also important in criminal jurisprudence. In Hussainara Khatoon v. State of Bihar¹⁶, the Supreme Court held that the right to speedy trial falls within the ambit of Article 21. This right applies not only to the actual proceedings but also to the police investigation. This right starts from the arrest and continues at all stages.

5. To be kept under trial with the culprits:

In the case of Sunil Batra vs. Delhi Administration¹⁷, the Supreme Court said that keeping the culprits under trial is against Article 21. The court further said that no process can possibly be considered fair if it keeps many people in jail for long periods of time without trial.

6. Right against handcuffing

In Prem Shankar v. Delhi Administration¹⁸, the court held that the imposition of handcuffs was unjust, arbitrary and immoral. When there is a clear and immediate risk of escape, handcuffs should be used.

7. Police atrocities

Police atrocities are a violation of Part III of the Indian Constitution and against human rights. In Kishore Singh v. State of Rajasthan¹⁹, the court held that the use of the third degree by the police is against Article 21. "Torture" means not only physical torture, but also mental and psychological torture.

8. Compensation

¹² AIR 2017 SC 4161.

¹³ AIR 2012 SC 1485.

¹⁴ AIR 2012 SCC 56.

¹⁵ AIR 1978 SC 1548.

¹⁶ AIR 1979 SC 1360.

¹⁷ AIR 1980 SC 1579.

¹⁸ AIR 1980 SC 1535.

¹⁹ AIR 1981 SC 625.

The right to claim compensation for violation of Article 21 falls within the scope of this article. In *Nilabati Behera v. State of Orissa*²⁰, the Supreme Court awarded damages for custodial death, which is a violation of Article 21.

9. Quality of life

Quality of life comes within the scope of Article 21. In *Chameli Singh v. State of Uttar Pradesh*²¹, the court held that the quality of life, which includes the right to food, water, environment, medical care, etc. Necessary for a civilized life. In *Olga Tellis v. Bombay Municipal Corporation*²², this right also includes the right to livelihood.

10. Health

Health is an important element of life. In *Parmanand Katra v. Union of India*²³, the Supreme Court held that all doctors are bound to provide immediate medical aid to injured people. The court further said that protecting human life is the first duty of doctors.

11. Prevention of sexual harassment

In the case *Vishakha vs. State of Rajasthan*²⁴, the Supreme Court gave guidelines to prevent sexual harassment of working women at the workplace. The court further said that sexual harassment of a working woman at her workplace is against Articles 14, 15 and 21.

12. Release and rehabilitation of bonded laborers

In the case *Bandhua Mukti Morcha vs Union of India*, the Supreme Court held that it is the duty of the state to release bonded laborers and provide them with proper rehabilitation. Bonded laborers also have the right to live under Article 21.

13. Euthanasia

Whether the right to life includes the right to die, especially the right to die, is a matter of much discussion. The news frequently covers the topic of euthanasia. The Netherlands, Belgium, Colombia and Luxembourg are among several countries that have legalized euthanasia.

Deliberately taking the life of a person to stop his pain and suffering is known as euthanasia. This is called "mercy killing".

Different types of euthanasia

Passive Euthanasia – This refers to stopping the treatment of a terminally ill patient, i.e. removing the support system.

Active euthanasia – This refers to the deliberate use of lethal drugs by a physician to end a patient's life.

Voluntary Euthanasia – In case of voluntary euthanasia, euthanasia is done with the consent of the patient.

Non-voluntary euthanasia – In this case, the choice is made on the patient's behalf when the patient is incapable of giving consent (in a coma or with severe brain damage).

Involuntary Euthanasia – Euthanasia performed against the wishes of the patient is considered murder in involuntary euthanasia cases.

World position on euthanasia

Both euthanasia and physician-assisted suicide are permitted in the Netherlands and Belgium.

While physician-assisted suicide is permitted in Germany, euthanasia is not.

In *Aruna Shanbaugh v. Union of India*²⁵, the Supreme Court held that passive euthanasia is permitted only in certain cases.

14. Adultery

In *Joseph Shine v. Union of India*²⁶, the Supreme Court held Section 497 of the IPC unconstitutional. The court further said that this section violates women's right to dignity. Adultery is the only ground for divorce.

15. Non-payment of minimum wages

In the case of *People's Union for Democratic Rights vs Union of India*²⁷, the Supreme Court held that non-payment of minimum wages is against Article 21.

16. Reproductive Options

²⁰ AIR 1993 SC 1960.

²¹ (1996) 2 SCC 549.

²² AIR 1986 SC 180.

²³ AIR 1989 SC 2039.

²⁴ AIR 1997 SC 3011.

²⁵ AIR 2011 SC 1290.

²⁶ (2019) 3 SCC 39

²⁷ AIR 1982 SC 1473.

In *Suchitra Srivastava v. Chandigarh Administration*²⁸, the Supreme Court held that the decision of whether or not to have a child falls within the ambit of the right to life and personal liberty.

17. Marriage

Indra Sharma vs. K.V. In the case of *Sharma*²⁹, the Supreme Court held that marriage is a civil right of an individual and the right to marry comes within the ambit of Article 21.

18. Right to sleep

Sleep is important for a healthy life. In the case of *Syed Maqsood Ali v. State of Madhya Pradesh and Others*³⁰, the court held that every person has the right to a decent place to live and a good night's sleep. Sleep is the best medicine for waking problems, and a labourer's sleep is pleasant, as has been observed many times. Sleeping brings peace. Lack of sleep leads to inability to concentrate, irritability and decreased productivity. It is important to remember that peace calms the soul, vitalizes the body and stimulates the mind. No one has the right to interfere with another person's ability to get a good night's sleep, live in peace, or think without interruption.

19. Self-determination of gender

Gender self-determination is a person's personal choice; No one has the right to interfere in another's choice. In *National Legal Services Authority v. Union of India*³¹, the Supreme Court held that self-determination of gender is a part of the right to life and personal liberty, hence falling within the ambit of Article 21.

20. Homosexual sexual acts

In *Navej Singh Johar v. Union of India*³², applying the principle of human dignity, the court determined that Section 377 of the IPC violates Articles 14, 15, 19 and 21 of the Constitution of India to the extent that it Comes under the category of crime. Sexual activities involving consenting adults (that is, anyone over the age of 18). As a result, it was deemed legal for LGBT individuals to engage in sexual activity with each other with their consent.

21. Child rights

It is important to protect childhood as it is an extremely precious and important time for all children around the world. The opportunity to grow, to be safe, and to have control over one's life are all rights that apply to children. As children move closer to becoming self-reliant adults, it is important to provide them with care, nurturing, and inspiration. Usually, adults in their homes provide this care. However, the State has a duty to identify alternatives that are in the best interests of children when those same people are unable to meet a child's needs³³. In *Bachpan Bachao Andolan v. Union of India*³⁴, the Supreme Court held that sexual, physical and emotional exploitation of children is against Article 21. In *Re-exploitation of Children in Orphanages*³⁵, the Supreme Court issued directions for the implementation of the provisions of the Act that protect the interests of children.

22. Right to education

*Unni Krishna, J.P. v. State of Andhra Pradesh*³⁶, the court upheld the fundamental right of every child to free and compulsory elementary education up to the age of 14 years as enshrined in Article 45 before its amendment in 2002. Article 21 - A was added by the 86th Constitutional Amendment in 2002 to ensure the right to education.

Article 21 of the Indian Constitution: Analysis

Article 21 of the Indian Constitution states that "No person shall be deprived of his life or personal liberty except according to procedure established by law." This provision has been widely interpreted by the Indian judiciary to cover various aspects of human life that go beyond mere physical existence. The Supreme Court of India has held that the right to life includes the right to live with dignity, the right to livelihood, the right to a clean environment, the right to health and the right to privacy.

One of the landmark cases that expanded the scope of Article 21 was the *Maneka Gandhi* case (1978). In this case, the Supreme Court held that the right to life and personal liberty is not limited to animal existence alone, but also includes the right to live a meaningful life. The court said that the right to life also includes the right to travel abroad

²⁸ AIR 2010 SC 235.

²⁹ (2013) 15 SCC 755.

³⁰ AIR 2001 MP 220.

³¹ AIR 2014 SC 1863.

³² (2019) 3 SCC 39

³³ SAVE THE CHILDREN, <https://www.savethechildren.in/blog/child-protection/importance-child-right/> (last visited Jun. 10,2023).

³⁴ AIR 2011 SC 3361.

³⁵ (2014) 2 SCC 180.

³⁶ AIR 1993 SC 2178.

and the government cannot arbitrarily restrict this right without assigning any reason. This decision laid the foundation for expanding the scope of Article 21 beyond its literal meaning.

Another important case that expanded the interpretation of Article 21 was the *Olga Tellis* case (1985). In this case, the Supreme Court held that the right to life includes the right to livelihood, and the government cannot deprive a person of his livelihood without following due process of law. The Court held that the right to livelihood is an essential component of the right to life and is essential for the realization of other fundamental rights.

The right to a clean environment is also recognized as a part of the right to life under Article 21. In the case of *Subhash Kumar v. State of Bihar* (1991), the Supreme Court held that the right to life also includes the right to live. A healthy environment, and it is the duty of the government to protect and improve the environment. The court said that the right to life and personal liberty cannot be enjoyed in the absence of a clean environment.

The right to health is also recognized as a part of the right to life under Article 21. In the case of *Center for Consumer Education and Research v. Union of India* (1995), the Supreme Court held that the right to health is a fundamental right. There is a right under Article 21, and the Government has a duty to provide adequate medical facilities to its citizens.

The right to privacy is also recognized as a part of the right to life under Article 21. *K.S. Puttaswamy v. Union of India* (2017), the Supreme Court held that the right to privacy is a fundamental right under Article 21, and is an intrinsic part of the right to life and personal liberty.

Conclusion

The Supreme Court has given a broad interpretation of Article 21 to include privacy, health, access to food, fair trial and other factors contributing to a dignified life. Diverse perspectives on a person's life are now being more widely accepted, which helps enhance their quality of life. This right has been defined as the core of human rights. Many injustices and social wrongs have been addressed through the application of the judiciary's broad interpretation of Article 21. Many new ideas which are recognized today as specific rights of an individual were born from Article 21. Article 21 of the Indian Constitution provides for the fundamental right to life and personal liberty, and its interpretation by the Indian judiciary has had a significant impact on the protection of individual rights in India. The Supreme Court has expanded the scope of Article 21 to include various aspects of human life such as right to live with dignity, right to livelihood, right to clean environment, right to health and right to privacy. This interpretation has ensured that the fundamental rights of individuals have been protected and strengthened democracy in India. Article 21 of the Indian Constitution provides the fundamental right to life and personal liberty. Its scope has been widely interpreted by the Indian judiciary, and its application has had a significant impact on the protection of individual rights in India. The right to life and personal liberty includes various aspects of human life, such as the right to live with dignity, the right to livelihood, the right to a clean environment, the right to health and the right to privacy. These rights are vital to the attainment of a just and equitable society, and their protection is essential to the growth and development of India as a democratic nation.

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