

A Depth Analysis of Article 21 under Indian Constitution

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ABSTRACT

The Constitution of India was formulated with the assistance of international documents, and its experiences attained from the demeanour and rights of the public. The Universal Declaration of Human Rights (UDHR) has influenced the structure and drafting the Constitution of India that protects the right to life and personal liberty under Article 9 of UDHR. The Indian Constitutional Assembly has adopted a similar provision as a fundamental right that guarantees to right to life and personal liberty. Article 21 of the Constitution of India is considered as Magna Carta of life and liberty. Hence, it set out a unique place as a fundamental right under the Indian Constitution which bestow the guarantees of Right to Life and Personal Liberty to citizens and as well as aliens which is enforceable against the State. Article 21 personates a constitutional value of extreme significance in a democratic civilised society. It secures the two basic rights respectively Right to Life and Personal Liberty under Article 21. This right is the heart of Constitution because it led a meaningful life in every aspect for survival and without the right of life and personal liberty nothing would exist.

Keywords; Right to Life, Personal Liberty, Article 21, Procedure established by Law, Fundamental Rights

INTRODUCTION

Article 21 of Constitution of India deals with the Protection of Life and Personal Liberty. Article 21 states that No person shall be deprived of his life or personal liberty except procedure established by law. This clearly indicates that this right is provided against the State only. State here includes not only the government but also local bodies, government departments, legislatures etc. It meant that deprivation of life or invasion of personal liberty done by an individual or private person does not fall under the purview of Article 21. The procedure established by law here means that there would be statutory provisions where such provision can deprive a person's right to life and personal liberty. This right is not only extent to citizens of India but extent to aliens as well. Thus, who are not citizens of India also entitled to protect his right to life and personal liberty under this right. Hence, the right to life is not merely about the right to survive but it also entails being able to live a complete life of dignity and meaning. The purpose of Article 21 is to prevent the unnecessary encroachment upon personal liberty and deprivation of life.

Meaning of Right to Life

Each and every individual has the right to life, liberty and security of person. The right to life is the fundamental right which enshrined under Article 21. The right to life is the most valuable right to the people. Right to life is a fundamental perspective of life without this individual cannot live as human beings and it consists all those aspects of life which led a human being's life complete, worth living and meaningful. Life under Article 21 is not only about the physical act of breathing, but it also includes the right to live with human dignity, right to health, right to shelter etc. Because it is the basic requirement that are essential and unavoidable for every individual that makes the concept of life. It is the only article which talks about the numerous aspects of human lives.

Meaning of Personal Liberty

The word liberty of the person is considered as most important aspect of life where it provides that no person can be imprisoned until the procedure under the law of land. According to **Dicey**, right to personal liberty has been described in such a way that prohibits or restricts the arrest, imprisonment or physical coercion. Thus, the liberty includes all the other rights which gives an individual in order to live and enjoy a decent life. Article 21 covers a wide range of personal liberty are as follows;

- Right to equal opportunity
- Right against exploitation
- Right against arbitrary arrest and detention

- Right to freedom under Article 19
- Right to Constitutional Remedies
- Right to freedom of religion.
- Prohibition of child labour and trafficking
- Cultural and Educational Rights

There is a reason behind to protection of personal liberty is to obtained social justice and to bestow every person equality and freedom of thought, belief, worship, faith and expression. Actually, it is a tool to provide the freedom of choice to each and every person.

Meaning of Procedure established by law

The procedure established by law means that a law which is laid down and constituted by the legislature or statutory body is valid if it has followed the true procedure prescribed by Executive. This is an essential factor of Article 21 which implies that the rights protected under Article 21 is not an absolute or acute right and it can be curtailed or suspended by way of prohibition imposed by the statutory body or legislature under the procedure established. Hence, if the parliament passes a law the court cannot declare it unconstitutional, unless and until it is passed without procedure established by law. This doctrine only protects the individual against the executive actions only, it does not protect from the arbitrary legislative actions and whether the laws made by them is reasonable, fair, just and not arbitrary.

Scope of Article 21

Under Article 21 of Indian Constitution states that right to life, it does not merely signify the animal existence or mere act of breathing like an animal. It confers the guarantees of right to life with dignified manner which led a meaningful and worthy life of human beings. There are some rights which are covered under Article 21 of Constitution of India as follows;

- Right to live with dignity and liberty
- Right of women to be treated with dignity and decency
- Right to livelihood
- Right to privacy
- Right to shelter
- Right to health
- Right to free legal aid
- Right against solitary confinement
- Right to speedy trial
- Right against handcuffing
- Right to travel foreign
- Right to free education up to the age of 14 years
- Right against inhuman treatment
- Right to a fair trial
- Right to hearing
- Right to information
- Right to reputation
- Right to freedom from noise pollution
- Right against bar fetters
- Right not to be driven out of a state
- Right to appropriate life insurance policy
- Right against bonded labour
- Right to get timely medical treatment in a government hospital
- Right against public hanging
- Right to social security and protection of the family
- Right of appeal from a judgement of conviction
- Right to sleep
- Right to the decent environment including pollution free water and air and protection
- Right against delayed execution
- Right against custodial harassment
- Right to emergency medical aid

Judicial Approach towards the interpretation of Article 21 of Constitution of India

Several rights have been found under the category of Article 21 from the passage of time. The Apex Court gave extended dimension to Article 21 which includes several aspects. It does not merely signify the animal existence; in

fact, it covers a wide scope which includes right to live with human dignity and liberty, right to livelihood, right to privacy, right to take water etc. There are important cases in respect of Article 21 of Indian Constitution discussed thereunder;

A.K. Gopalan v. State of Madras, 1951, The Apex Court has adopted the narrow interpretation under this case in respect of Article 21. The Court held that the protection under Article 21 is available only against arbitrary execution acts and not from arbitrary legislative acts. This clearly indicates that the state can deprive an individual rights as per law based.

Maneka Gandhi v. Union of India, 1978, The Supreme Court overruled the judgements of Gopalan case by adopting the wider interpretation of Article 21. This case clearly reflects that the right to life and personal liberty of an individual can be curtailed or deprived by imposing the conditions of law where procedure prescribed by law would be fair, reasonable and just. The Court further explained that all those aspects of life which go to make a man's life complete, meaningful and worth living would be included under Article 21.

Provisions available under Article 21 while emergency is proclaimed

A.D.M. Jabalpur v. S. Shukla, this case popularly known as habeas corpus. A contention was raised before the Apex Court due to the condition witnessed when a National Emergency is proclaimed under Article 359, the president can declare the suspension of enforcement of all or any of the fundamental rights and it was reflected that the reasonableness of preventive detention act under the Article 21 was misused, so to protect the personal liberty by amended 44th Amendment Act, 1976 declared that right to protection in respect of conviction for offences under Article 20 and Right to life and Personal liberty under Article 21 is not suspended even proclamation of emergency under Article 352 and 358 respectively.

RIGHT TO LIVELIHOOD

Unni Krishnan v State of A.P., before the judgement of Maneka Gandhi's case, the Supreme Court held that right to livelihood does not cover within the ambit of right to life under Article 21. But after Gandhi's case the Supreme Court has undergone a change and said the right to life also included the right to livelihood.

Olga Tellis v. BMC, this case also known as pavement dwellers case. The Supreme Court held that right to livelihood also comes under the ambit of right to life. The Court further said that, no one can live without the basic necessity of life.

Kharak Singh v. State of U.P., the Supreme Court held that while explaining the meaning of life here used something more than the existence of animal life.

Right to Live with Human Dignity

Sunil Batra v. Delhi Administration, the Apex Court held that right to life also included right to lead a healthy life with a view to enjoy all the faculties of human body at their conditions. It also including of protection of culture, traditions, heritage and all those things which confers a meaning to man's life. It also consisted right to live in a peaceful environment, right to repose and health.

Bandhua Mukti Morcha v. Union of India, under this case, the Apex Court held that the theme of dignity is found under Article 21. The **Justice Bhagwati** observed that, article 21 grants the guarantees of fundamental rights to every person to live with human dignity and prevent from exploitation. Hence, it also includes safeguard of health of men, women, children and workers against any sort of exploitation, harassment or abuse.

Right against Sexual Harassment at Workplace

Vishakha v. State of Rajasthan, in this case, the Supreme Court declared that sexual harassment of a working woman at workplace is amounting to the infringement of rights of gender equality and right to life and personal liberty which manifests the violation of Articles 14, 15 and 21 of Constitution of India. The Supreme Court has issued several guidelines against the sexual harassment and protect the rights of gender equality in the following ways;

- All employers or persons whether public or private nature should adopt the appropriate actions at workplace to prevent the sexual harassment.
- Written or express restriction of sexual harassment should be notified or printed at workplace.
- The Rules and Regulations of Government sector in respect of their conduct and discipline should adopt the penalties provisions against the offender or culprit.
- In respect of private sector, the employers should include the aforesaid restrictions in the standing order under the Industrial Employment (Standing Orders) Act, 1946.

- The reasonable and appropriate situations should be provided in respect of health, leisure, work and hygiene towards the women at workplace.

Right to Reputation

D.F. Marion v. Minnie Davis, the Supreme Court held in this case that the good reputation is an important element of personal security and it must be protected equally in the same way as other protection of right to life, personal liberty and property.

Right to Shelter

Chameli Singh v. State of Uttar Pradesh, A three Bench of Apex Court had observed and held that right to shelter also covered under the ambit of Article 21 of Indian Constitution. The Court further stated that, right to shelter is a fundamental right that available to every citizen which make the right to life more meaningful and worthy.

Right to Medical Care

Parmananda Katar v. Union of India, the Supreme Court within this case cleared that, preservation of life is utmost importance. The Court further said that once the life is lost it cannot be restored in any conditions. It was held that all the doctors whether public or private has to extent all necessary medical facilities to the injured without waiting the legal formalities.

Right to Clean Environment

The Article 21 signify the right to life of dignity manner in a good environment and free from the dangers of diseases or infections. To maintain the healthy environment and preserve the sanitation have been held to fall within the scope of Article 21 because it adversely affects the life of the people and it amounts to slow poisonous substance that reduced the life of citizens.

M.C. Mehta v. Union of India, 1988, the Apex Court held that the closure of tanneries because it adversely affects the water pollution.

M.C. Mehta v. Union of India, 1997, in this case, the Supreme Court had issued numerous guidelines for the protections of Taj Mahal from degradation environment because it is an ancient monument of India.

Murli Deora v. Union of India, the Court held that smoking at public place is affects the right to life of others i.e., non-smokers may become a victim of someone who is smoking at public place.

Right to know or right to be Informed

R.P. Ltd v. Proprietors Indian Express Newspaper, Bombay Pvt Ltd, the Apex Court held that in a civilised democracy society, people must have right to know and to attain the conduct of State's affairs.

Essar Oil Ltd v. Halar Utkarsh Samiti, in this case, the Supreme Court held that there is a strong connection between right to life and right to know where classified acts of government agencies or acts may affect the life, health and livelihood.

Reliance Petrochemicals Ltd v. Proprietors Indian Express Newspaper, the Supreme Court reiterated the same observation as above said, and ruled that the citizens who had been made responsible to secure the environment had a right to know the government acts or proposals.

Right to Education

The idea of right to education also flows from the Article 21 of Indian Constitution. The state is under a Constitutional mandate to provide educational institutions at all sphere for the welfare of the citizens.

Mohini Jain v. State of Karnataka, 1989, under this case a challenge was involved by the private professionals' educational facilities to the constitutionality of state laws regulating capitation fees charged by such institutions. The Supreme Court held that the right to education is one of the facets of liberty which covered under Article 21 and must read along with the Directive Principles under Article 41 of Indian Constitution. The Court interpreted the right to education upto the age of 14 years as fundamental rights of every citizen. In order to execute this law declared by Apex Court, Article 21-A was added under the Constitution by 93rd Amendment Act.

Right to Die

P. Rathinam v. Union of India, a question was produced before the court whether right to die is included within Article 21 of Right to life. The court held that right to life also includes right to die and declared section 309 of IPC as void and unconstitutional.

Gian Kaur v. State of Punjab, but in this case, the court held that right to life does not include right to die and such an act to take one's life is punishable under IPC. Court further held that right to die with dignity is covered under Article 21.

Right to speedy trial and right against illegal detention

Hussainara Khatoon v. Home Secretary, State of Bihar, a notice was brought before the Apex Court that number of men, women and children were kept in prisons for several years for awaiting the trials in courts of law. The Apex Court took serious note and ordered to release all the prisoners who were in jail for a longer period and the said court found that was violation of Article 21.

Right to Privacy

Kharak Singh v. State of Uttar Pradesh, it was the first case of privacy raised before the Court whether the right to privacy could be implied from Article 21. The court held that an unwarranted intervention into a person's home or disturbance may be caused to him thereby, it was infringement of common law right of man. In this case court observed that right to privacy is not a guaranteed right under Article 21 of Constitution of India

Justice K.S. Puttaswamy (Retd.) v. Union of India, in this case the Supreme Court has unanimously declared that right to privacy as an integral part of right to life and personal liberty. The Court further said that right to privacy has been recognised as a fundamental right under the ambit of Article 21 of Indian Constitution. This decision overruled the decisions of Kharak Singh's and M.P. Sharma's case.

Right to free legal aid and right to appeal

M.H. Hoskot v. State of Maharashtra, the Supreme Court observed two points while explaining the free legal aid; firstly, supply the copy of a judgement to the prisoner in time to enable him to file an appeal and secondly, provision of free legal aid to the prisoner who is indigent person. These two aspects are also flows from the Article 21 that ensures the fairness and reasonableness.

CONCLUSION

The Indian Judiciary provided widely explication to right to life and personal liberty under Article 21 of Indian Constitution. The Apex Court not only assistance the explaining of instinct human qualities but also set out certain procedure to enforce them. This establishes the rule of law meaningful and magnificent. Each and every interpretation laid down in respect of Article 21 aimed to acquire justice which is manifests under the [Preamble undergone all round of development and expansion of citizens. Each interpretation tries to fulfil the basic necessity of human beings while protecting the individuality, dignity and liberty.

The idea of right to life has evolved as the most important right because all other rights revolve around this right and without this, they don't hold any significance. The scope and development of this right has grown from time to time. Article 21 of Indian Constitution is regarded as the heart of Fundamental Rights.

The concept of Article 21 has been emerged from the multiple aspects interpreted by the Indian Judiciary with the passage of time. At the initially stage, the scope of Article 21 was narrowly defined but it developed its growth gradually over a time. Hence, the Article 21 has been provided a wider interpretation to the Indian Judiciary and numerous rights are discovered within this ambit. Thus., Article 21 of Constitution of India safeguards the rights of the people as a strong weapon

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