

# ADVANCED CONSTITUTIONAL LAW: PROTECTION OF LIFE AND PERSONAL LIBERTY (ARTICLE 21)

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**Abstract:** In any structured society, the rights conferred by established law to individuals cannot be fulfilled solely by addressing the needs of animals. These rights are safeguarded only when they are acknowledged and supported by all institutions, allowing for development without hindrance. Human rights, which were originally considered natural rights, are designed to achieve specific objectives. To this end, it is crucial to guarantee fundamental rights such as access to food, clean water, a healthy environment, education, and healthcare, as enshrined in the constitutions of civilized societies. These rights are essential for individuals to lead lives of dignity. The term 'life' as referenced in Article 21 transcends mere physical existence, encompassing all aspects of a fulfilling life, including the right to earn a livelihood. This right is fundamental and applies to all individuals residing in India, regardless of their citizenship status. The right to life, which includes the right to live and work as outlined in Article 21, is not merely theoretical; it is robust and dynamic, ensuring that the nation adheres to the principles of public discourse envisioned by the framers of the Indian Constitution. Furthermore, the 'protection of life and personal liberty' under Article 21 is not without limits. Therefore, this research paper aims to examine the constitutional perspective on the right to life and personal liberty, along with the judicial interpretations related to these rights.

**Keywords:** Law, Liberty, Article 21, Protection of life, personal liberty, Human rights, Right to life, legal precedents

## **1.0 Introduction:**

The right to life and personal liberty stands as a cornerstone of human existence, encompassing a broad spectrum of fundamental essentials necessary for survival. This all-encompassing concept not only emphasizes the undeniable importance of basic living requirements but also extends to the deeper intrinsic values that define our individuality and freedom. Throughout this comprehensive module, a detailed exploration into the profound meaning and significance attributed to life and personal liberty has been provided. Furthermore, a critical examination of the Indian judiciary's notable commitment to adopting a liberal interpretation of this fundamental right has been undertaken within the scope of this study. This judicial perspective has paved the way for groundbreaking legal precedents that have expanded the understanding and application of the right to life and personal liberty. Notable cases highlighting the right to a healthy environment, the right to privacy, the right to marry, and other related rights within the framework of this fundamental principle have been scrutinized and elucidated in depth throughout the module, shedding light on the evolving landscape of human rights jurisprudence.

## **2.0 Objectives**

- a) Learners would gain a comprehensive understanding of the extensive and multifaceted nature of the right to life and personal liberty as enshrined in the legal framework of India. This includes delving into the historical evolution, key legal precedents, and the intersection of these fundamental rights within the cultural and societal context of the nation.
- b) Learners would have the opportunity to delve into the intricate and evolving landscape of the Indian judicial system, particularly with regards to the recent trends shaping the interpretation and application of the right to life and personal liberty. By exploring landmark cases, emerging doctrines, and the judicial reasoning behind such decisions, participants would develop a nuanced perspective on how these crucial rights are safeguarded and expanded through the dynamic discourse within the Indian legal sphere.

### **3.0 An Overview Components of Protection of Life and Liberty (Article 21)**

The fundamental principle that every individual has the innate and irrevocable right to exist signifies a cornerstone of moral, ethical, and legal frameworks. This paramount right, encapsulated by the sanctity of life, stands as a beacon of inherent value, emphasizing a universal entitlement to protection against unjust deprivation. Within the intricate tapestry of human rights, the overarching umbrella of the right to life delicately weaves together a myriad of essential components, each intertwined with the fabric of humanity's collective well-being. Alongside the foundational right to life itself lies a tapestry of interconnected entitlements, encompassing the right to dignified existence, the right to pursue one's livelihood unencumbered, and the right to inhabit a nurturing and sustainable environment. This holistic and multifaceted concept of the right to life radiates a profound resonance, echoing the moral imperatives that underpin our shared humanity. By recognizing the integral relationship between the preservation of life and the flourishing of individuals within society, we honor the intricate symphony of rights that harmoniously coalesce to constitute the foundation of a just and equitable civilization.

#### **3.1 Right to Life**

The term "human rights" encompasses the rights of individuals both as solitary beings and as members of a community. These rights are essential for fostering both personal and societal well-being. Among these, the right to life is regarded as the most fundamental. The infringement of this right undermines all other human rights, as none can truly exist without it. Due to its paramount importance, this right has been acknowledged in numerous international, national, and regional legal frameworks. In the context of India, the right to life, as articulated in Article 21 of the Constitution, holds a position of utmost significance among all fundamental rights outlined in Part III. In its essence, the right to life signifies a living standard that enables individuals to explore their inner and outer selves, to lead a life of dignity and humanity, and to enjoy essential freedoms. It is the duty of every civilized nation to safeguard the right to life of its citizens. The Indian judiciary has been instrumental in upholding the true essence of the right to life as stated in Article 21, particularly following the landmark Maneka Gandhi judgment, which has positioned the courts as advocates for the underprivileged. Initiated efforts to safeguard the interests of the underprivileged in society. During the 1980s, the Supreme Court of India advanced the concept of public interest litigation by permitting advocates and non-governmental organizations to submit petitions on behalf of individuals who had historically lacked power, such as bonded laborers, rickshaw drivers, pavement dwellers, residents of mental health facilities, and those affected by environmental harm. In this manner, the courts acknowledged fundamental rights that were not explicitly outlined in the Indian Constitution.

The Indian judiciary has taken a broad and progressive approach in interpreting the terms "life," "personal liberty," and "procedure established by law" to safeguard the fundamental rights of individuals. Consequently, the right to life as enshrined in Article 21 of the Indian Constitution encompasses various rights, including the right to education, the right to a clean environment, the right to reputation, the right to food, the right to shelter, the right against exploitation, the right to a dignified existence, the right to the release and rehabilitation of bonded laborers, the right to legal aid, the right to information, the right to travel abroad, the right to privacy, and the right against solitary confinement, among others. It is important to note that the right to life is not absolute; the state may impose reasonable restrictions through established procedures. However, the phrase "procedure established by law" in Article 21 does not permit arbitrary legislation; rather, it must be reasonable, fair, and just. Justice H.R. Khanna aptly noted that the sanctity of life and liberty existed in civilized societies even prior to the adoption of the Indian Constitution. In this regard, the Constitution embodies the principles of life, liberty, and protection from arbitrary legal authority. Despite being one of the most vital fundamental rights, the term "life" remains undefined within the Constitution of India. Therefore, it is essential to examine various judicial interpretations to understand its meaning. Additionally, it is noteworthy that judicial decisions from the United States have influenced Indian courts in defining "life" and "personal liberty." In the case of *Munn v. Illinois*, Justice Field referenced the Fourteenth Amendment of the U.S. Constitution to elucidate the concepts of "life" and "personal liberty."

### **3.2 Right to Personal Liberty and Reasonable 'procedure established by law'**

Blackstone asserts that personal liberty is defined by the ability to move freely, to change one's location, or to travel wherever one desires. This highlights his focus on the importance of freedom of movement. In contrast, Dicey articulates that the essence of personal liberty lies in an individual's right to be free from imprisonment, arrest, or any form of physical coercion that lacks legal justification. This perspective emphasizes the negative aspect of personal liberty, which restricts the State from engaging in any unjustified actions against individuals.

The Honorable Supreme Court of India, in the case of *Kartar Singh v. State of Punjab*, reaffirmed that the term "procedure" as outlined in Article 21 refers to a process that is just, fair, and right, rather than arbitrary, whimsical, or oppressive. This procedure must align with the principles of natural justice, embodying the concept of "fair play in action." Consequently, it is argued that the ruling in *Maneka Gandhi v. Union of India* has influenced subsequent judgments, prompting the courts to embrace broader interpretations of personal freedoms, including the right to privacy, the right to education, the right to health, the right to a speedy trial, the right to bail, the right to appeal, the right to humane treatment in prison, the right against torture, the right to live with basic human dignity, and the right to compensation for victims, among others.

### **3.3 Right to Live in Healthy Environment is part of Right to Life and Personal Liberty**

Indian courts have acknowledged the importance of sustainable development and environmental rights through a broad interpretation of Articles 21, 48, 48A, and 51A of the Constitution. Over time, various directives have been issued to establish an effective administrative framework aimed at preventing environmental degradation caused by developmental activities. In the landmark case of *Vellore Citizen Welfare Forum v. Union of India*, the Supreme Court of India applied the principle of "Sustainable Development," examining several constitutional provisions, including Articles 48-A and 51-A(g). The Court determined that the State has a duty to protect and preserve the environment, affirming that every individual has the right to live in a pollution-free environment. Additionally, the Court recognized the precautionary principle and the polluter pays principle as essential components of India's environmental law. It ruled that restoring a damaged environment is integral to "Sustainable Development," obligating

the polluter to compensate both the affected individuals and the costs associated with environmental restoration. In various other rulings, the Supreme Court has sought to balance ecological preservation with developmental needs. In the case of *Rural Litigation and Entitlement Kendra Dehradun v. State of Uttar Pradesh*, commonly referred to as the Doon Valley case, the Supreme Court addressed a conflict regarding mining activities in hilly regions. Following a thorough investigation, the Court ordered a halt to mining operations and mandated compensation for those affected, emphasizing the right of individuals to a healthy environment. The Court also expressed significant concern for the local residents' livestock, homes, and agricultural lands. More recently, in *M.C. Mehta v. Union of India*, I.A. No. 1967 in I.A. No. 1785, decided on May 8, 2009, the Supreme Court suspended all mining activities in the Aravalli Hill Range in Haryana until a Reclamation Plan is established.

### **3.4 Right to Education is Part of Right to Life and Personal Liberty**

In the case of *Bandhua Mukti Morcha v Union of India*, the Supreme Court determined that the right to life as enshrined in Article 21 of the Indian Constitution encompasses the right to education. The Honorable Supreme Court elaborated on the fundamental right to education in *Mohini Jain v State of Karnataka*, asserting that the combined implications of Articles 21, 38, 39 (a) and (b), 41, and 45 obligate the State to ensure educational opportunities for its citizens across all levels of the education system. The Court emphasized that the right to education is essential for leading a dignified life. Additionally, the Supreme Court has consistently sought to balance ecological concerns with developmental needs. In the *Rural Litigation and Entitlement Kendra Dehradun v. State of Uttar Pradesh*, commonly referred to as the Doon Valley case, the Court addressed a conflict regarding mining activities in hilly regions. Following a thorough investigation, it ordered the cessation of mining operations and mandated compensation for those affected, thereby safeguarding the right of individuals to a healthy environment. The Court also expressed significant concern for the local residents' livestock, homes, and agricultural lands. In *Intellectuals Forum, Tirupathi v. State of A.P.*, the Supreme Court held the government accountable for the preservation of historical tanks, thereby broadening the concepts of sustainable development and the public trust doctrine. The principle of Inter-Generational Equity was recognized as integral to sustainable development, a notion reiterated in various cases, including *A.P. Pollution Control Board v Prof. M.V. Nayudu*, where it was affirmed that the State must not violate community rights or alienate their property. In *T. N. Godavaram Thirumulpad v Union of India*, the Supreme Court once again urged governments to formulate coherent policies that reflect the principles of inter-generational equity.

In the recent case of *M.C. Mehta v. Union of India*, I.A. No. 1967 in I.A. No. 1785, decided on May 8, 2009, the Supreme Court has ordered a suspension of all mining activities in the Aravalli Hill Range located in Haryana until a Reclamation Plan is established. This Plan must include measures for the rehabilitation of the affected area.

### **3.5 Right to Privacy is Part of Right to Life and Personal Liberty**

The right to privacy is firmly established as a fundamental right under Article 21 of the Indian Constitution, enforceable against the government. In the case of *Govind v. State of M.P.*, the Supreme Court emphasized that claims related to privacy and dignity must be carefully considered and can only be denied if a significant countervailing interest is demonstrated. If the Court determines that the asserted right warrants protection as a fundamental privacy right, any law infringing upon it must meet the compelling state interest standard. Furthermore, in *Malak Singh v. State of Punjab*, the Supreme Court reiterated that law enforcement must respect the privacy of individuals during surveillance activities. The judiciary has recognized phone tapping as a serious infringement of the right to privacy, grounded in the principle that the state cannot impose unreasonable limitations on an individual's right to life or personal

liberty. In the case of *People's Union for Civil Liberties v. Union of India*, the Supreme Court ruled that wiretapping constitutes a violation of personal privacy, asserting that telephone conversations are inherently private matters. The Court noted that any telephone tapping conducted under Section 5(2) of the Telegraph Act, 1885, without following a reasonable legal procedure, infringes on an individual's right to privacy. More recently, in *Selvi v. State of Karnataka*, the Supreme Court determined that the compulsory use of techniques such as narcoanalysis, polygraph tests, and brain electrical activation profile tests represents an unjustified invasion of an individual's mental privacy. This ruling acknowledged that such forced intrusions into a person's mental processes are not only violations of privacy but also affronts to human dignity and liberty, often resulting in severe and lasting repercussions. This marks the first instance in which the court acknowledged an individual's right to mental privacy in India. Additionally, in the case of *Re: Ramlila Maidan Incident dated June 4-5, 2011, versus the Home Secretary, Union of India and others*, the Supreme Court ruled on February 23, 2012, that even if an assembly was deemed illegal, the police's actions under Section 144 of the Code of Criminal Procedure (Cr PC) were unreasonable, particularly as they did not provide any hearing to the individuals who were sleeping. Consequently, the court determined that the right to privacy of these sleeping individuals was severely and unjustly violated by the actions of the State police.

### **3.6 Right to Die and Right to Life**

The discussion surrounding the right to die in contrast to the right to life gained momentum when the Supreme Court, in the case of *P. Rathinam v Union of India*, declared Section 309 of the Indian Penal Code 1860 unconstitutional for the first time. The court reasoned that suicide or attempts to commit it do not inflict harm on others. However, this ruling was later overturned by a larger bench in *Smt Gian Kaur v State of Punjab*, which determined that the "right to life" does not encompass a "right to die." Justice Verma, representing the Constitution Bench, stated that the right to life, which includes the right to live with dignity, extends only until the end of one's natural life. The Supreme Court has since legalized passive euthanasia, indicating that this ruling will remain effective until Parliament enacts relevant legislation. In its consideration of international judgments, the Supreme Court affirmed that Article 226 grants the High Court significant authority to issue appropriate orders based on applications from close relatives, friends, or medical personnel seeking permission to withdraw life support from patients in a permanent vegetative state who are unable to provide consent.

### **3.7 Right to Marry**

The discussion surrounding the right to die in contrast to the right to life gained momentum when the Supreme Court, in the case of *P. Rathinam v Union of India*, declared Section 309 of the Indian Penal Code 1860 unconstitutional for the first time. The court reasoned that suicide or attempts to commit it do not inflict harm on others. However, this ruling was later overturned by a larger bench in *Smt Gian Kaur v State of Punjab*, which determined that the "right to life" does not encompass a "right to die." Justice Verma, representing the Constitution Bench, stated that the right to life, which includes the right to live with dignity, extends only until the end of one's natural life. The Supreme Court has since legalized passive euthanasia, indicating that this ruling will remain effective until Parliament enacts relevant legislation. In its consideration of international judgments, the Supreme Court affirmed that Article 226 grants the High Court significant authority to issue appropriate orders based on applications from close relatives, friends, or medical personnel seeking permission to withdraw life support from patients in a permanent vegetative state who are unable to provide consent.

The Supreme Court of India has declined to acknowledge same-sex marriages. In the case of *Suresh Kumar Koushal v NAZ Foundation and others*, the court determined that Section 377 of the Indian Penal

Code is not unconstitutional. Nevertheless, it stated that the appropriate legislative body is at liberty to consider the repeal of Section 377.

#### **4.0 Conclusion**

Article 21, which protects life and personal liberty, alongside Article 21A, which guarantees the right to education, serves as essential foundations of the Indian Constitution. Together, these articles embody the core values of human dignity, autonomy, and equality. Article 21 defends individual freedoms, while Article 21A highlights the significance of education as a vital instrument for empowerment and societal advancement. Collectively, these provisions reflect the Indian state's dedication to cultivating a fair and inclusive society, enabling every citizen to live with dignity and access opportunities. However, it is evident that during the period of emergency, the environment for a liberal interpretation of the right to life and personal liberty was severely restricted, as individual freedoms were compromised in the name of national security, leading to the sacrifice of personal liberties under this constitutional framework.

This is the reason why the stipulated trend in Gopalan in relation to the interpretation of Article 21 did not change during this period. However, we find that the term personal liberty received a somewhat broader interpretation during this period when the right to privacy, the right to travel abroad, certain residual rights of detenu to write a book and publish it, etc. components were held of personal freedom. As stated above in many cases, the Supreme Court of India played an important role in interpreting Article 21 of the Constitution. In this way the Supreme Court has expanded the liabilities, duties and responsibilities of the state and its officials and fully implemented its explanatory and proactive judicial process. Thus, it becomes very clear that over many times, the Court while interpreting the Article 21 of the Constitution may be able to enforce the rights as guaranteed under Article 21 and also possibly that the court is enable to adjacently add some more rights or considered the rights as inherent provision under the Article 21 of the constitution of India which makes the scope of this article is very wide and in range. Liberty exists only if the restrictions exist. The full-fledged liberty is not possible so far as civilized society. Though the state is servant of the constitution and his loyalty must be towards its citizens by means of enactment of welfare policy.

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