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“JUDICIAL INTERPRETATION AND JUDICIAL ACTIVISM ON THE RIGHT TO LIFE AND PERSONAL LIBERTY UNDER THE CONSTITUTION OF INDIA --AN ANALYTICAL STUDY”

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ABSTRACT:

Unless an individual is in possession of certain rights and liberties, he cannot attain the highest in him. Right to life and personal liberty are the most important gifts that can be enjoyed by a free human society. An ideal state should be one which can achieve the authority of the state and the liberty of the individual which would leave him the maximum liberty to plan, order and effect his growth development in all the fields of life and at the same time afford him the protection headed for this purpose, both from his fellow citizens and from forces outside the state. The right to life and personal liberty is the most fundamental of all Fundamental Rights guaranteed by the Constitution of India to the people in the country. Denial of this basic right means denial of all other rights because none of other rights would have any utility and existence without the right to life and personal liberty. The judiciary has extended the role and scope of Article 21 of the Constitution.

Key Words: possession, rights, personal liberty, Fundamental rights, judiciary

FUNDAMENTAL RIGHT IN INDIA: From the time of the idea of transfer of power from Britain to Indian hands had taken shape, the idea of incorporating a list of Fundamental Rights in a new Constitution of India had excited the imagination of almost all political thinkers and constitutionalists in India. On the idea of incorporation of Fundamental Rights in India Constitution the American Bill of Rights had a tremendous impact. A Bill of Human Rights was included in the Constitution in the hope that one day the tree of liberty would bloom in India. Besides a reading of the Constituent Assembly Debates leaves no doubt that the chapter of Fundamental

Rights was influenced by the profound democratic conviction of our founding fathers.¹ For instance, referring to the Indian declaration of rights, Dr. Ambedkar remarks-

“The declaration of the right of Man has become part and parcel of our mental make-up These principles have become the silent immaculate premise of our outlook”²

The framers of the Indian Constitution were examining the experiences of a variety of Constitution of the other countries. Out of which we can mentioned the Bill of Rights of American Constitution, the France Declaration of the Rights of Man and the Irish Constitution of 1935.

The rights provided by the Constitution of India can be classified into

1. Political and Civil Rights comprises the Fundamental Rights guaranteed in Part III of the Constitution of India
2. Social and Economic Rights comprises the Directive Principles of the State Policy guaranteed by Part IV of the Constitution of India.

The following are the Fundamental Rights provided by Part III of the Indian Constitution³

- (a) Right to Equality (Articles 14---18)
- (b) Right to Freedom (Articles 19---22)
- (c) Right against exploitation (Articles 23---24)
- (d) Right to freedom of religion (Articles 25---28)
- (e) Cultural and Educational Rights (Articles 29---30)
- (f) Right to Constitutional Remedy (Articles 32---35)^d

RIGHT TO LIFE AND PERSONAL LIBERTY UNDER ARTICLE 21 AT THE HAND OF THE CONSTITUENT ASSEMBLY:

When the Indian got the privilege and responsibility to draft their own Constitution, it was but natural to expect them and they were also under a moral but binding obligation to frame a Constitution which guarantees freedoms and liberties to all.⁴ The Constituent Assembly of India considered comprehensive system to fundamental liberties to be drawn as a part of the Constitution.⁵ Shri B. N. Rau, Constituent Adviser to the Constituent Assembly issued a note on the personal liberty clause. He suggested that the provision relating to personal liberty should neither be vague nor a meaningless guarantee against the oppressive laws.⁶ The Draft Clause 16 as prepared by the Committee provided---

¹ Ram Joshi , The Indian Constitution and its working. p.39

² Dr. B.R. Ambedkar, Constituent Assembly Debates, Vol. I, pp. 99---100

³ J.N. Pandey, Constitution Law of India, Central Law Agency, p 57

⁴ V.K. Bansal, Right to life and personal liberty in India, Deep and Deep Publication, p. 92

⁵ Shailya Chander- Justice V.K. Krishna Iyer on Fundamental Rights & Directive Principles, Deep & Deep Publication, Edi 2003, p.150

⁶ supra note 4

‘No person shall be deprived of his life or personal liberty without due process of law nor shall any person be denied equality before the law within the territories of the federation’⁷

B.N. Rau expressed that the power of review implied in ‘due process’ clause which was not only undemocratic but also threw an unfair burden on the judiciary. Thereafter the Drafting Committee replaced the expression ‘without due process of law’ by the expression ‘except according to procedure established by law’.⁸ These words were borrowed from Article 31 of the Japanese Constitution.⁹

The Sub-Committee on Fundamental Right submitted its final draft report to the Advisory Committee on 16th of April, 1947. In the Sub- Committee Sir K.M. Munshi submitted his own draft corresponding to Article 21 which read-

‘No person shall be deprived of his life, liberty and property without due process of law’¹⁰

Again the Advisory Committee prepare an interim report and submitted it to the Constituent Assembly on 23rd April, 1947 in which the proviso to the right to property was dropped and now it was read as-

‘No person shall be deprived of his life and liberty without any due process of law nor shall any person be denied the equality before the law within the territories of the Union’

Clause 16 of the Draft Constitution of October 1947 limited the ambit of the expression ‘liberty’ by adding the word personal before it. The Draft Constitution as prepared by Rau was scrutinized by a Drafting Committee appointed by the Assembly on August 29th 1947. The Drafting Committee after scrutinizing it prepared a revised draft Constitution where the right to personal liberty was included in Article 15 of that draft Constitution which provided:

‘No person shall deprive of his life or personal liberty except according to procedure established by law nor shall any person be denied equality before the law and equal protection of the law within the territory of India.’

Dr. Ambedkar produced a reprint of the Draft Constitution in the Constituent Assembly on November 4, 1948 and submitted it to the President of the Assembly on November 3, 1949. The Article 15 became Article 21 in the Constitution of India in the new draft Constitution which provided:

‘No person shall be deprived of his life and personal liberty except according to procedure established by law’.

⁷ B.L. Hansaria, Right to life and Liberty under the Constitution, N.M. Tripathy Pvt. Ltd. p3

⁸ H.R. Khanna, Making of Indian’s Constitution, Eastern Book Com., p. 38

⁹ Article 31 of the Japanese Constitution: ‘ No person shall deprived of life or liberty nor shall any other criminal penalty be imposed except according to the procedure established by law’

¹⁰ Dr. Subhash C. Kashyap, The Framing of India’s Constitution, Universal Law Publishing Co. Pvt. Ltd. Second Edi. p.229

ARTICLE 21 OF THE CONSTITUTION OF INDIA:

Article 21 emphasized that the procedure established by law must be followed if a person is to be deprived of his life and personal liberty. In Article 21 'law' means 'state made law' or 'enacted law'. So the expression 'procedure established by law' in the said Article means the procedure prescribed by the law of the State, but it should not be arbitrary, unfair or unreasonable.¹¹ In other word, 'procedure established by law' meant a law made by the Union Parliament or by Legislature of States and it was proper to consider the expression in the light of the expression due process of law as interpreted by the U.S. Supreme court.¹²

From Article 31 of the Japanese Constitution the expression in Article 21 'procedure established by law' have been borrowed. During 13th century A.D., when the famous charter of English Liberty known as Magna Carta declared that- 'No free man shall be taken or imprisoned or seized or outlawed or exiled or in any way destroyed nor shall we go upon him nor send upon him but by the lawful judgment of his peers and by the law of the land' the concept of 'due process of law' was originated. The phrase 'law of the land' was replaced by the phrase 'due process of law' in the statute of Westminster of the liberties of London.¹³

The Fifth Amendment of the U.S. Constitution which lays down 'no person shall be deprived of his life, liberty or property without due process of law', which clause is known as the due process clause. The clause 'due process' was inserted in the U.S. Constitution to act as safeguard in the matter of protecting the life, liberty and property of citizens in the republic of U.S.A.¹⁴ The word 'due' in the 'due process' denotes that the law should be just but what is just and reasonable is not static concept, it varies from situation to situation, what may be regarded as reasonable in one situation may not necessarily be so in another situation.¹⁵

Due process has two aspects Substantive due process and procedural due process. Substantive due process provides that substantive law should be reasonable and not arbitrary and procedural law envisages in proceeding of a case the procedure should be reasonable, for example in a proceeding of a case the person affected should have fair right of hearing which includes- notice, opportunity to be heard, an impartial tribunal, an orderly procedure. In India the expression 'due process of law' created uncertainty, confusion and gave unlimited power to the judiciary.

The Indian Constitution makers desired to clarify crystallize and make definite various fundamental rights, so to avoid vagueness and uncertainty, they used deliberately the expression 'procedure established by law' in Article 21 in place of phrase 'due process of law' as used in the U.S. Constitution. The phrase 'procedure established by law' came to be considered for the first time by the Supreme Court in A.K. Gopalan vs. State of Madras¹⁶, in the said case.

¹¹ D.D. Basu, Shorter Constitution of India, Wadhwa Nagpur, 13th edition, p. 267

¹² H.M. Seervai, Constitutional Law of India, Vol. III, 4th edition, Universal Book Traders, p. 978

¹³ V.L. Bansal, Right to Life and Personal Liberty in India, Deep & Deep Publication, p. 172

¹⁴ M.P. Jain, Indian Constitutional Law, Wadhwa Nagpur, 5th edition, p. 1080

¹⁵ ibid

¹⁶ AIR 1950, SC 27

RIGHT TO LIFE AND PERSONAL LIBERTY: JUDICIAL INTERPRETATION

Article 21 of the Indian Constitution confers on every person the Fundamental Right to life and personal liberty. These two rights have been given a paramount position by the judiciary. As two rights are fundamental not only the citizen but also the foreigner entitled the rights guaranteed by Article 21 of the Constitution. Article 21 of the Constitution of India does not apply where a person is detained by a private individual and not by or under authority of the state, no Fundamental Right is violated.¹⁷

Immediately after the effectiveness of the Constitution, in *A.K. Gopalan vs. Union of India*¹⁸ for the first time, the question of interpretation of the words personal liberty came up for consideration of the Supreme Court of India. In this case A.K. Gopalan a prominent leader of Communist Party of India was detained under the Preventive Detention Act 1950 and he has challenge the validity of his detention under the said Act on the ground that his detention violated his right to freedom of movement under Article 19 (1) (d). He argued that the word 'personal liberty' includes the freedom of movement. The Supreme Court pointed out by rejecting the contention made by the petitioner that the personal liberty under Article 21 in itself had a comprehensive content and ordinarily if left alone would include not only freedom from arrest but also various freedom guaranteed by Article 19. The majority in the case pointed out that Article 19 and Article 21 deals with different aspect of liberty. Similarly Articles 20 to 22 constitutional protection in respect of life and personal liberty and was not controlled by Article 19 of the Constitution of India. Thus, a law depriving personal liberty had to conform to Articles 20—22 and not with Article 19 which covered a separate and distinct ground. Thus this case was regarded as the high water mark of legal positivism which later had to undergo a sea change in several cases.

In *Kharak Singh vs. State of U.P.*¹⁹ the Supreme Court expressed that the word 'life' was not only includes bodily restraint or confinement to prison but also something more than mere animal existence. But in *Govind vs. State of M.P.*²⁰ the petitioner challenged the validity of M.P. Police Regulations 855 and 856 on the ground that these Regulations violated Article 21 which also includes the right to privacy. Supreme Court has held in the said case that right to privacy would necessarily have to go through a process of case by case development. The Regulations are valid as it imposed restrictions on the Fundamental Right of petitioner provided by Article 21 of the Constitution of ion of India.

Again in *Prabhakar Pandurring vs. State of Maharashtra*²¹, the Court held that the right of a detenu to send the manuscript of a book written by him while he was in prison, outside the prison for publication was part of each right to personal liberty.

In *Satwant Singh vs. Assistant Passport Officer, New Delhi*²² the Supreme Court further extended the scope of this Article and has held that the 'right to travel abroad' was part of a person's personal liberty within the meaning of Article 21 of the Constitution.

¹⁷ supra note 11 p. 258

¹⁸ AIR 1950 SC27: 1950 SCR 88

¹⁹ AIR 1963 SC 1295

²⁰ AIR 1975 SC 1379

²¹ AIR 1966 SC 424

In *R.C. Cooper vs. Union of India*²³ the Supreme Court held that the validity of laws affecting fundamental rights should be judged with reference to fundamental right and not with reference to the object of the legislatures.

*Maneka Gandhi vs. Union of India*²⁴ is regarded as the landmark case of the post emergency period. By this case Article 21 which had laid dormant for merely three decades was brought to life. This case shows how liberal tendencies have influenced the Supreme Court in the matter of interpreting Fundamental Right particularly Article 21 of the Constitution.²⁵ In this case the Supreme Court has laid down a number of propositions seeking to make Article 21 much more meaningful than hitherto. In this case a nexus has been established between Articles 14, 19 and 21, since these Articles are related to one another as such procedure established by law to deprive a person of his personal liberty must not be in derogation to freedom granted under Article 19. The Court has interpreted the word 'personal liberty' expansively and covers a variety of rights under it. The case also reinterpreted the expression 'procedure established by law'. It means that the procedure must satisfy certain requisites in the sense of being fair and reasonable; the procedure cannot be arbitrary, unfair or unreasonable.

In interpretation of the Article 21 the Supreme Court of India had made the amplest use of the judicial review, undaunted by the cramping language of the Article so much so that the resultant today is just the opposition of what it was at the beginning.²⁶ It may be pertinent to mention here that rigidity of interpretation in *Gopalan's* case started to modify since the famous case of *Bank nationalization case*²⁷ where it was held that there is no reason to suppose that Articles 19, 21 and 22 were water tight compartment. In the *Maneka Gandhi* case the court has given the widest possible interpretation. The Article 21 of our Constitution is expanded in accordance with the interpretative principle indicated in *Maneka Gandhi*; it will read as follows—

'No person shall be deprived of his life or personal liberty except according to fair, just and reasonable procedure established by valid law'²⁸

RIGHT TO LIFE AND PERSONAL LIBERTY: JUDICIAL ACTIVISM

After the end of the dark period of internal emergency, during which total deprivation of right to life and personal liberty it received the judicial approval from the highest court of the land.²⁹ In recent years a significant change in India's jurisprudence has taken place by the major judicial pronouncements with respect to life and personal liberty under Article 21 of the Constitution of India. The post emerging period (1977-98) is known as the period of judicial activism because it was during this period that the court's jurisprudence blossomed with

²² AIR 1967 SC 1836

²³ AIR 1970 SC 564

²⁴ AIR 1978 SC 597; (1978) 1 SCC 248

²⁵ supra note 14, p. 1085

²⁶ supra note 11

²⁷ *R.C. Cooper vs. Union of India* AIR 1970 SC 569

²⁸ Justice V. R. Krishna Iyer on Fundamental Right and Directive Principles, Shailja Chander, p. 164

²⁹ *A.D.M. Jabalpur vs. Shukla* AIR 1976 SC 1276

doctrinal creativity as well as process innovation.³⁰ The Supreme Court has adopted activist role while interpreting the right to life and personal liberty from the Maneka Gandhi's case³¹. In the light of the Directive Principles of State Policy which is embodied in Part IV of the Constitution of India and the values underlying the U.N.O.'s Universal Declaration of Human Rights, 1948 the court has taken to interpret these rights. As a result of Judicial Activism the scope of the concept 'life' and 'liberty' under Article 21 has gradually extended. Until the decision of Maneka's case, the orbit of personal liberty included individual right to be let alone, freedom to go abroad and certain rights of the detainer etc., but the Maneka's case paved the way for realizing new vistas of personal freedom like right of speedy trial, right to bail, right to appeal, right to human treatment inside prison, right against torture, right to live with basic human dignity and right to compensation to the victim.³²

The following rights are recognized as Fundamental Rights under Part III of the Constitution with the liberal interpretation of 'life' and 'liberty' under Article 21 of the Constitution.

1. RIGHT TO SPEEDY TRIAL:

Right to Speedy Trial is not expressly incorporated in Part III of the Constitution of India. There is also no precise provision for the maximum period for which a magistrate can keep an under trial in jail without trial. But the Supreme Court states that right to a speedy trial is one of the dimensions of Fundamental Right to life and personal liberty as guaranteed by Article 21 of the Indian Constitution.³³ Under our Constitution though speedy trial is not specifically enumerated as a Fundamental right, it is implicit in the broad sweep and content of Article 21 as interpreted by the Supreme Court in Maneka Gandhi vs. Union of India³⁴ in which it was observed by J. Bhagwati that the procedure visualized by Article 21 has to be 'fair, just and right' and not 'arbitrary, fanciful or oppressive'.³⁵

In Hussainara Khaton (No1) vs. Home Secretary State of Bihar³⁶ the Supreme Court has held that right to speedy trial a Fundamental Right is implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution.³⁷

In Abdul Rahman Antulay vs. R.S. Naik³⁸ the Supreme Court has stated that there can be no limit within which a trial must be completed so it is the duty of the state to proceed with the case with reasonable promptitude.³⁹

³⁰ S.P. sathi, Judicial Activism in India, Oxford, p. 100

³¹ AIR 1978 SC 597

³² supra note 28 p. 165

³³ supra note 14 p. 1096

³⁴ AIR 1978 SC 597

³⁵ supra note 13, p. 159

³⁶ AIR 1979 SC 1360

³⁷ J.N. Pandey, Constitutional Law of India, Central Law Agency, p. 214

³⁸ AIR 1992 SC 1701

2. RIGHT TO LIVELIHOOD:

The Supreme Court has held that the right to life in Article 21 would not include livelihood in re. Sant Ram⁴⁰, a case which arose before Maneka Gandhi case. But with the expansion of the word 'life' in Article 21 the Court underwent a change and held that the right to life guaranteed by Article 21 includes the right to livelihood.⁴¹ In *Olga Tells vs Bombay Municipal Corporation*⁴² which is popularly known as pavement dwellers case, the Court ruled that the word life in Article 21 includes the right to livelihood. The same decision again reiterated by the Supreme Court in *D.K. Yadav vs. J.M. A. Industries*⁴³

3. RIGHT TO LIVE WITH HUMAN DIGNITY:

In *Francis Coralie vs. Union Territory of Delhi* the Court said that the right to live is not restricted to mere animal existence, which is something more than the mere physical survival. In *Peoples Union for Democratic Rights vs. Union of India*⁴⁴ the Supreme Court has held that non –payment of minimum wages to the workers employed in various Asaid Projects in Delhi was a denial to them of their right to live with basic human dignity and violative of Article 21 of the Constitution.

4. PRISONER'S RIGHT TO BE TREATED WITH HUMANITY:

Article 10 of the Covenant on Civil and Political Rights has laid down that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human being.

In *Chares Shobraj vs. Superintendent Central Jail, Tihar, New Delhi*⁴⁵ the Court restricted the barbaric treatment to the prisoner and the punishment of solitary confinement as a violative of right to life under Article 21 of the Constitution. In *Francis Coralic vs. The Administrator, Union Territory of Delhi*⁴⁶ J. Bhagawati stated that a detinue must permit to have at least two interviews in a week with relatives and friends.

5. RIGHT TO FREE LEGAL AID:

For every democratic society governed by the rule of law equal justice is the basic requirement and in order to ensure equality of justice legal aid to the people is very much required. Article 22(1) of the Indian Constitution provided that no person who is arrested shall be denied the right to consult and to be defended by a legal practitioner of his choice. In *M.H. Hoskot vs. State of Maharashtra* the Supreme Court took note of Article 39-A and laid down that Article 21 read with Article 39-A and 142 requires inter-alia that where a prisoner is unable to exercise his constitutional and statutory rights of appeal including special leave of appeal for want of legal assistance, there is implicit in the court Article 142 read with Article 21 and 39-A of the constitution, the power to assign counsel to the prisoner provided he does not object to the lawyer named by the court.

⁴⁰ AIR 1960 SC 932

⁴¹ Board of Trustees of the Port of Bombay vs. Dilip Kumar R. Nandkarni AIR 1983 SC 109

⁴² AIR 1986 SC 180

⁴³ (1993) 3 SCC 258

⁴⁴ AIR 1982 SC 1473

⁴⁵ AIR 1978, SC 1514

⁴⁶ AIR 1981 SC 746

In State of Maharashtra vs. Manubhai Pragaji Vashi⁴⁷ the Court has widened the scope of the right to free legal aid which is necessary to have well trained lawyers in the country, this is only possible if there are adequate number of Law College with necessary infrastructure, good teachers and staffs.

In Suk Das vs. Union Territory of Arunachal Pradesh⁴⁸, the Court has held that failure to provide free aid to an accused at the State cost, unless refused by the accused would vitiate the trial. Free legal aid at the State cost is a Fundamental Right of a person accused of an offence and this right is implicit in the required or reasonable, fair and just procedure prescribed by Article 21.

6. RIGHT TO CLEAN ENVIRONMENT:

The Supreme Court has held in Vellore Citizen's Welfare Forum vs. Union of India⁴⁹ Article 21 includes right to life of dignity in healthy environment with proper sanitation system and free of pollution.

7. RIGHT TO PRIVACY

In Re-Ratanmala⁵⁰ case the right to privacy even of a prostitute was recognized as an important right. In Rajagopal vs. State of T.N.⁵¹ which is popularly known as Auto Shankar case the Supreme Court has expressly held that the right to privacy or the right to let alone is guaranteed by Article 21 of the Constitution. In Mr. X. vs. Hospital X⁵² the Supreme Court has held that although the privacy is a Fundamental Right under Article 21 of the Constitution but it is not an absolute right and restriction can be imposed on it for the prevention of crime, disorder or protection of health or morals or protection of rights and freedom of others. Again in Justice K.S. Puttuswamy (Retd) vs. Union of India⁵³ the Supreme Court has included the right to privacy under Article 21 of the Constitution of India.

8. RIGHT TO CHOOSE LIFE PARTNER:

The Supreme Court in Shakti Vahini vs. Union of India⁵⁴ has held that right to choose his or her life partner is the Fundamental Right under Article 21 of the Constitution.

9. RIGHT TO DISCLOSURE OF DEADFUL DISEASES:

Every person is entitled the right to be told about any dreadful and deadly disease. The right to be told about any dreadful and deadly disease. The lady proposing to marry a person is entitled to be informed about the fiancé suffering from HIV+ from the doctor in whose treatment the husband is covered. The lady has the right to know about the disease he is suffering from there is no infringement of Article 21.

⁴⁷ (1995) 5 SCC 730

⁴⁸ (1986) 25 SCC 401

⁴⁹ 1996 (5) SCC 647

⁵⁰ AIR 1962 Mad 31

⁵¹ (1994) 6 SCC 632

⁵² AIR 1995 SC 495

⁵³ (2017) 10 SCC 1

⁵⁴ 2018 (7) SCC 192

10 RIGHT TO DIE WITH DIGNITY:

The Court has held that right to life does not include the right to die⁵⁵, but in Aruna Ramchandra Shanbaug vs. Union of India the Supreme Court has held that passive euthanasia can be allowed under exceptional circumstances. In Common Cause vs. Union of India the Supreme Court has held that right to die with dignity is a Fundamental Right.⁵⁶

Conclusion:

Right to life and personal liberty is the most precious, sacrosanct inalienable and fundamental rights of citizens. It is one of the basic human rights in a democratic state,⁵⁷ because life bereft of personal liberty would be one without honour and dignity and so much a life would lose all significance. It is the back-bone of human right movement both at national and international level.

The Constitution of India incorporated a most elaborate declaration of human rights by the provision of Part – III of the Constitution of India which covers variety of topics and some are purely the outcome of the peculiar social condition, prevailing In India. Some of the rights conferred by the Constitution are limiter. The provisions which impose limitations on the authority of the state are binding for all intent and purpose. For instance Article 21 of the Constitution provides that ‘no person shall be deprived of his life and personal liberty except according to procedure established by law’. In present day the scope and content of Article 21 of the Indian Constitution is not the same as it was enacted, due to the needs of time and to certain extent political exigencies of the Indian scenario, the Supreme Court had to shift from its rigid stand to a liberal interpretation of personal liberty looking at spirit behind Article 21. The journey from Gopalan⁵⁸ to Maneka Gandhi⁵⁹ case gives a new dimension to in the judicial concept of the Article. From the Maneka Gandhi case the Supreme Court has adopted innovation and activist role while interpreting the right to life and personal liberty.

The concept of right to life and personal liberty in Article 21 of the Constitution is the outcome of the concept of human rights and needs more emphasize for its protection irrespective of caste, creed, religion, sex and nationality. It has a duty of the Government to provide or safeguard the basic rights of human being for promotion of human dignity. Training courses to the personal of the armed forces, to the administrative officers including police and to the judicial officers should be organized. The NGOs should be propagated in a vigorous manner to create awareness amongst the masses and to convey the concept of liberty. In the evaluation of Article 21 the judiciary is playing a very important role. It is also found that the Supreme Court declares an act as a violative of Article 21 and later overruled the same so it is desirable to do so is that law should be certain but law must kept pace with time in the dynamic society.

⁵⁵ Gian Kaur vs. State of Punjab (1996) 2 SCC 648

⁵⁶ civil no. 215 of 2005

⁵⁷ Sunil Deshta & Kiran Deshta, Fundamental Human Rights, Deep & Deep Publication Pvt. Ltd. p.1

⁵⁸ AIR 1950 SC 27; 1950 SCR 88

⁵⁹ Maneka Gandhi vs. Union of India (1978) 1 SCC 248, AIR 1978 SC 597

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