



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## IMPACT OF INDIAN JUDICIARY ON RIGHT TO LIFE WITH HUMAN DIGNITY

Aakash Y. Raj  
Research Scholar  
Department of Law

Christ University  
Bangalore, Karnataka

**Abstract:** According to *Article 21* of the Indian constitution no person shall be deprived of life protection and personal liberty except procedures established through legal measures. Twelve fundamental rights are identified through this articles that are *right of living with human dignity, health, livelihood, pollution free environment* and taking action against *confinement of solidarity*. Moreover, this act grants rights of *living quality life, travelling abroad* and *maintaining privacy*. Indian citizens also have *right to shelter* and right to take actions against *public hanging* and *death in custody*. However, there are several incidents in which theses fundamental rights are invaded such as case of *Justice K.S Puttaswamy v. Union of India, 2017*. In 2012 Justice K.S Puttaswamy and Mr. Pravesh Khanna filed a writ petition under civil no. 494 attacking Aadhaar structure. Aadhaar was introduced to ensure full-proof identity of citizens however, this structure faced criticism due to its invasion of citizens' constitutional right to privacy. However, in 2012 Aadhaar structure was not under umbrella of legislation. In 2016, Aadhaar Act was passed and more writ petitions were submitted challenging government. In 2016, judgment was passed by Supreme Court where **Aadhaar Act 2016**, was explained that was allowing citizens to avail benefits for various social schemes and regarding petitions for right to privacy, judgment was supported through *Information Technology Act, 2000*. According to Section 32 of this act personal information of citizens will be collected only for authentication purposes and will not be disclosed to third parties. Case judgment example of *Indian young lawyers v. State of Kerala, 2018* can be also explained in this ground of right to privacy. In Sabarimala temple entry of female devotees belonging to 10-50 age group was restricted that highlighted invasion of right to women safety. However, in judgment writ petition of young lawyers were denied on grounds of 1965 Act Section 3 that explain public worship matters are required to be managed under religious matters.

**Index Terms** – Human dignity, right to live, health, public hanging .

### I. INTRODUCTION

Right to life is considered as fundamental right of citizens. Invasion of these rights can create legal obligations for both people and institutions. This study highlights fundamental rights highlighted in Article

21 of Indian constitution. Moreover, with two Supreme Court cases are evaluated to identify efficiency of government and legal structure of India to protect these basic fundamental rights of citizens. According to Indian constitution, citizens are provided the right to live life with dignity under **Article 21**. This article highlights fundamental rights of Indian citizens that include the right to **live life with human dignity, with good health and livelihood**. Along with that right to living in a **pollution-free environment and having a quality lifestyle** of Indian Citizens are highlighted in this article. This article allows Indian citizens to **travel abroad** and **protection of privacy**. Individuals are also provided permission to take legal action against **confinement of solidarity, delay in execution of legal work and hanging in public places**. People can also access legal help for taking action against the death **of family members or friends in legal custody**. Through this article citizens of this country are provided right for shelter. According to Indian constitution, these basic rights are protected that are required by human beings for living quality life with dignity. Rights under this article are identified based on charter of liberty mentioned in Magna Carta of 1251 and article XXXI of Constitution of Japan, 1946.

Supreme Court of this country strictly considered evaluation of respective Article 21 before giving any judgment for cases that are related to invasion of protected fundamental rights. For ensuring clean air and environment Supreme Court developed new doctrines of tort laws and considered adoption of doctrines with strict liability for invoking equitable and remedial powers for enforcing statutory authority for dealing with environmental degradation. Under respective Article, Supreme Court enacted **Environmental Protection Act of 1986** for empowering statutory authority for promulgating regulations for governing industrial pollution. This act allowed the central government to shut down industries that failed to comply with environmental protection regulations. Foundation each of laws is dependent on rights protected through Article 21 and judiciary retains a strong vigil for keeping these basic rights of Indian citizens impact Privacy is considered a fundamental right under Article 21. However, the introduction of Aadhaar created insecurity among citizens regarding the government's invasion of private life. In 2006 Aadhaar scheme was conceptualized in 2006 and launched by government 2009 for creating unique identification number of 1.1 billion citizens. Result of this government action resulted in aggressive responses from citizens due as it was against fundamental rights. Case of **Justice K.S Puttaswamy v. Union of India, 2017** are among several cases that were taken to Supreme Court regarding complaint against Aadhaar structure. In 2012 Justice K.S Puttaswamy filed a writ petition under civil no. 494 regarding invasion of privacy through Aadhaar documentation In several other cases related to invasion of privacy judges' bench of Supreme Court considered right to privacy as core of human dignity that ensures privacy safeguards for autonomy of individuals and allows individuals to control different vials aspects of life Based on a writ petition by K.S Puttaswamy show cause notice was filed against the Union of India on 30th November 2012 regarding the complaints of Aadhaar scheme violating fundamental rights of the public. After this show cause notice eight judges bench was created for evaluating this matter. Judge's bench advised the Union of India to follow specific guidelines before making unique identification numbers mandatory for Indian citizens. Guidelines included setting up campaigns in the media for making the public aware of Aadhaar scheme and letting people know that their personal information will not be exposed to third party except court's permission of criminal investigation. This decision of supreme court was supported through amendments in **Aadhaar Act 2016**, in which respective scheme was considered not as acts of violating individuals' privacy. The Supreme Court came with the verdict that collection and storage of demographic data do not violence fundamental

rights and information is going to be strictly for maintaining the country's safety *Section 57* of this act permitted state and central government to use information collected through Aadhaar for nation safety and development.

This act was further supported by *Information Technology Act 2000, Chapter 1* that highlights definition of using secure systems while collection demographic information. According to this act secure system is defined as hardware or software and other technical procedures that are, secured for unauthorized access, ensure a reasonable level of reliability and operations that are correct. Apart from that security system used by the government is also suited for performing intended functions and according to accepted security structure and procedure.

However, in some cases, court verdicts were not in support for fundamental rights identified under Article 21 such as case of *Indian Young lawyers v. State of Kerala 2018*. This case was based on not permitting women between age group of 10-50 in Sabarimala temple. Indian young lawyers attacked the religious structure of the respective temple regarding discrimination of religious practice based on gender that violates fundamental rights for expressing faith towards religion. Along with Article 21, this restriction on women devotees also violates Articles 25, 15 and 26 of Indian constitution. Preventing menstruating women from entering temple premises of Sabarimala was identified as an act of discrimination under Article 15. Along with that, this activity of temple authorities was also violating Article 25 by overshadowing right to express religious views. Kerala high court in 1991 permitted authorities of Sabarimala temple to decide essential practices for custom related to disallowing menstruating women for entering premises of temple. However, the writ petition of young lawyers was denied by supreme courts according to Article 26(b). That denotes that religious organizations are provided autonomy for controlling writes in religious ceremonies. Through writ petition, young lawyers attacked temple authority as well as the state government of Kerala based on the grounds of not permitting women in temple premises can be seen as religious tenet and legal restriction on such practices challenges existence of the core judiciary belief system. However, the Supreme Court's verdict was in support of temple authorities named Devasom board based on grounds of *Authorisation of entry act 1965* According to section 3 of this act pre-existing religious customs cannot be invaded by judicial decision. Apart from that this act also allows Devasom board of taking full autonomous decisions regarding ceremonies and customs performed in Sabarimala temple premises. Court supported judgment by Rule 3(b) of 1965 regulations that highlight that cases of public worship belong under the matter of religion and courts cannot interfere with the autonomy of the religious sector.

Though judgment of Sabarimala case was in not support of young lawyers it still ignites conflict between freedom of practicing personal religious views and religious denomination by temple authorities. In this case, Supreme Court failed to protect rights of women to live with dignity under Article 21 and these incidents can further provoke discrimination in name of religious activities and ceremonies. This case could have been seen as action against gender discrimination and women rights related issues in India. However, judges' bench decided to support religious beliefs more than protecting the rights of women towards living with dignity.

## Conclusion

From this study, it can be highlighted that Supreme Court's decision regarding Aadhaar scheme was in support of citizens for protecting fundamental rights of privacy. However, in Sabarimala case, the court verdicts were in support of temple authority that created confusion regarding power of judiciary structure for nullifying gender discrimination in name of religious activities and protecting fundamental rights. In this present global environment of women empowerment, Sabarimala case can be seen as drawback of judiciary structure in India for protection of fundamental rights.

## II. ACKNOWLEDGMENT

First and foremost, I wish to express my sincere thanks indebtedness to my guide Prof.Dr.V.Sudesh ,Principal and Dean faculty of Law and Department of studies in Law, Bangalore University, Bengaluru. Dr.Divya D V Assistant Professor Christ University who has spared their precious valuable time to guide and aide my in completion of this research article. Their inspirational guidance and directions were extremely instrumental in improving the quality of my research article.

Finally, it is difficult to acknowledge everyone who have directly or indirectly contributed or rendered necessary guidance assistance in carrying out this research article

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