



ARTICLE 21 – A CANOPY TO VARIOUS RIGHTS

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ABSTRACT

Article 21 stands as a pillar in the realm of fundamental rights, constituting a bedrock principle in various constitutional frameworks worldwide. In the context of the Indian Constitution, Article 21 holds particular significance as it encapsulates the essence of individual freedoms and safeguards against arbitrary deprivation of life and personal liberty.

This research paper delves into the intricate dimensions of Article 21, a fundamental right enshrined in various constitutional frameworks globally. The primary focus is on the Indian Constitution, where Article 21 is a cornerstone of the fundamental rights. The primary objectives of this research are two-fold Firstly, to provide a comprehensive historical overview of Article 21, tracing its evolution from its conceptualization to its present-day significance. This historical lens will enable a deeper understanding of the intentions behind its incorporation and its evolution over time. Secondly, to critically analyze the legal interpretations of Article 21 through landmark judgments, dissecting key decisions that have sculpted its jurisprudential landscape.

The paper provides an extensive examination of the evolution of Article 21, its legal interpretations, landmark judgments, and its broader implications on individual liberties and human rights. Furthermore, it explores the comparative perspectives of Article 21 in select international jurisdictions, drawing parallels and distinctions. Through a multidisciplinary approach, this research aims to unravel the comprehensive significance of Article 21 and its enduring impact on legal, social, and ethical paradigms.

KEYWORDS Constitution, Fundamental rights, personal liberty, interpretation, human rights.

1. INTRODUCTION

Article 21 stands as a pillar in the realm of fundamental rights, constituting a bedrock principle in various constitutional frameworks worldwide. In the context of the Indian Constitution, Article 21 holds particular significance as it encapsulates the essence of individual freedoms and safeguards against arbitrary deprivation of life and personal liberty. This research embarks on a journey to unravel the layers of Article 21, tracing its historical evolution, examining landmark judgments, and scrutinizing its implications on legal, social, and ethical dimensions. As we delve into the depths of Article 21, we seek to shed light on its nuanced interpretations, challenges, and the broader impact it has on shaping the societal and legal landscape.

1.1 Background

The background of Article 21 of the Indian Constitution reflects a pivotal moment in Indian history, characterized by the struggle for independence and the subsequent drafting of a democratic framework for the newly formed nation.

The drafting of the Indian Constitution took place in the aftermath of India's independence from British colonial rule in 1947.

The Constituent Assembly, comprising representatives from diverse social, cultural, and political backgrounds, was tasked with the monumental responsibility of crafting a Constitution that would guide the nation's governance.

The framers of the Indian Constitution drew inspiration from various international instruments, including the Universal Declaration of Human Rights (UDHR) adopted by the United Nations in 1948.

The UDHR, with its emphasis on the right to life, liberty, and security of person, provided a foundational principle that influenced the inclusion of similar rights in the Indian Constitution, including Article 21.

The debates in the Constituent Assembly surrounding fundamental rights were extensive and reflected diverse perspectives on the role of the state in safeguarding individual liberties.

There was a consensus among the members of the Constituent Assembly about the importance of protecting the life and personal liberty of citizens against arbitrary state action.

The interpretation of Article 21 has evolved significantly through landmark judgments by the Indian judiciary.

Cases such as *A.K. Gopalan v. State of Madras* (1950) and *Maneka Gandhi v. Union of India* (1978) played crucial roles in shaping the understanding and scope of Article 21, expanding it beyond mere physical liberty to encompass broader notions of personal autonomy and dignity.

Article 21 is enshrined in Part III (Fundamental Rights) of the Indian Constitution, alongside other essential rights guaranteed to citizens.

It reflects the commitment of the Indian Constitution to protect the inherent dignity and autonomy of individuals and to ensure that the state acts in accordance with established legal procedures.¹

Overall, the background of Article 21 embodies the aspirations of the Indian people for a just and equitable society founded on the principles of democracy, rule of law, and respect for human rights. It stands as a cornerstone of India's constitutional democracy, safeguarding the fundamental rights of its citizens.

1.2 Objectives

The primary objectives of this research are two-fold. Firstly, to provide a comprehensive historical overview of Article 21, tracing its evolution from its conceptualization to its present-day significance. This historical lens will enable a deeper understanding of the intentions behind its incorporation and its evolution over time. Secondly, to critically analyze the legal interpretations of Article 21 through landmark judgments, dissecting key decisions that have sculpted its jurisprudential landscape. By achieving these objectives, the research aims to offer insights into the multifaceted nature of Article 21 and its implications for individuals and society.

1.3 Scope and Methodology for Article 21

The scope of this research extends across a multidisciplinary spectrum, incorporating legal, historical, and comparative dimensions. In the legal domain, the focus will be on the interpretations of Article 21 as expounded through judicial pronouncements. Landmark cases and their implications will be meticulously examined to delineate the contours of this fundamental right. The historical dimension will entail an exploration of the constitutional history and debates surrounding the drafting of Article 21, elucidating the framers' intent and the societal context that shaped its formulation.

The methodology involves an exhaustive review of legal literature, statutes, and case law, coupled with a historical analysis of constitutional debates and framers' discussions. Additionally, a comparative approach

¹ N V Anandram, "Situating Human Rights in the Media", in *Human Rights in India Historical Social and Political Perspectives* Chiranjivi J. Nirmal (Ed.), (New Delhi Oxford University Press, 2000)

will be adopted, studying how similar rights are protected in select international jurisdictions. The research will be conducted through a qualitative analysis of primary and secondary sources, aiming to provide a holistic understanding of Article 21 in its various facets.

In conclusion, this research aspires to contribute to the academic discourse by unraveling the intricacies of Article 21. By combining historical insights, legal interpretations, and a comparative perspective, the paper aims to offer a comprehensive understanding of Article 21's evolution and its profound impact on individual liberties and human rights

2. HISTORICAL CONTEXT OF ARTICLE 21

The historical roots of Article 21 lie in the constitutional history of India, marked by a struggle for independence and a fervent desire to establish a democratic and just society. This section aims to provide a nuanced understanding of the historical context that paved the way for the incorporation of Article 21 into the Indian Constitution.

2.1 Constitutional History

The constitutional history of India is intricately woven with the struggle for independence from British rule. As the framers envisioned a democratic nation, the need for a constitutional framework became paramount.

2.2 Influences on the Drafting of Article 21

The drafting of Article 21 was not a mere legislative act but a reflection of societal aspirations and global influences. Concepts of justice, liberty, and individual rights from various philosophical and constitutional traditions may have influenced the framers. Additionally, the Universal Declaration of Human Rights and international human rights discourse could have played a pivotal role in informing the drafting process.

2.3 Constituent Assembly Debates

The debates within the Constituent Assembly provide valuable insights into the framers' intentions behind Article 21. Key figures such as Dr. B.R. Ambedkar, Jawaharlal Nehru, and others expressed their views on the necessity of a robust provision safeguarding the right to life and personal liberty. The ideological underpinnings, dissenting voices, and compromises made during these debates will be examined to understand the dynamics that led to the final wording of Article 21.

The historical backdrop forms the foundation for understanding the framers' intent and the societal imperatives that culminated in the inclusion of Article 21 in the Indian Constitution.

3. TEXT AND INTERPRETATION OF ARTICLE 21

Article 21 of the Indian Constitution is succinct yet profound, declaring that "No person shall be deprived of his life or personal liberty except according to the procedure established by law." This section delves into the nuanced interpretations of Article 21, exploring its literal meaning, judicial constructions, the scope it encompasses, and its interplay with other fundamental rights.

3.1 Literal Interpretation

A literal interpretation of Article 21 of the Indian Constitution would focus strictly on the language used in the provision without considering external factors such as historical context or judicial precedent. Here's the literal interpretation of Article 21

Article 21 states "No person shall be deprived of his life or personal liberty except according to procedure established by law."

Life The term "life" in Article 21 refers to the existence of an individual. A literal interpretation would emphasize that no person can be deprived of their life without following a legal procedure established by law. This implies that the state cannot arbitrarily take away the life of a person without due process.²

Personal Liberty "Personal liberty" encompasses various freedoms and rights that are essential to individual autonomy. This could include freedoms such as the right to move freely, the right to privacy, and the right to freedom of expression. A literal interpretation would suggest that these liberties cannot be curtailed or infringed upon by the state without following a lawful procedure.³

Procedure Established by Law The phrase "procedure established by law" emphasizes the importance of legal process and due procedure. A literal interpretation would mean that any deprivation of life or personal liberty must be in accordance with procedures prescribed by existing laws. This implies that there must be a legal framework in place, and any action by the state must adhere to this framework.

In essence, a literal interpretation of Article 21 underscores the significance of protecting the life and personal liberty of individuals from arbitrary state action. It emphasizes the importance of legal procedures and due process in ensuring that any deprivation of life or personal liberty is lawful and justifiable.⁴ However, it's important to note that the interpretation of Article 21 has evolved over time through judicial decisions, which have expanded its scope beyond a strict literal reading to encompass broader notions of human rights and dignity.

3.2 Judicial Construction

Judicial constructions play a pivotal role in elucidating the depth and contours of Article 21. The judiciary, through its interpretative role, has expanded the scope and meaning of this fundamental right. Landmark cases, including *Maneka Gandhi v. Union of India* (1978) and subsequent decisions, will be analyzed to understand how the judiciary has evolved its interpretation over time, moving beyond a literal reading to a more dynamic and expansive understanding.

3.3 Scope and Ambit of Article 21

The scope and ambit of Article 21 have evolved through judicial interpretations. The scope of Article 21 of the Indian Constitution has evolved significantly through judicial interpretation over the years. While the literal text of Article 21 focuses on the protection of the right to life and personal liberty, its interpretation has been broadened to encompass various aspects of human rights and dignity. Here's an overview of the scope of Article 21

Right to Life

The right to life under Article 21 includes not only the right to existence but also the right to live with dignity. This broader interpretation has led to the recognition of various rights and entitlements that are essential for a meaningful life, such as the right to food, shelter, healthcare, and a clean environment.

The Supreme Court of India has held that the right to life includes the right to lead a healthy life, the right to livelihood, and the right to education.

Personal Liberty The concept of personal liberty under Article 21 extends beyond mere physical liberty to include various freedoms and rights that are essential for individual autonomy and self-expression. This includes freedoms such as the right to privacy, the right to freedom of speech and expression, the right to freedom of movement, the right to freedom of association, and the right to choose one's occupation or profession.

² Basu, D. D. (2018). *Introduction to the Constitution of India* (23rd ed.). Lexis Nexis.

³ FaliS.Nariman, "Protection of Personal Liberty in India", in *Reflections on Emerging*

⁴ Mathews, J. T. (2019). *The Right to Life and Personal Liberty under Article 21 of the Indian Constitution A Review of Recent Jurisprudence*. *Indian Journal of Constitutional Law*, 7(1), 45–68.

Due Process Article 21 emphasizes that no person shall be deprived of their life or personal liberty except according to procedure established by law. This underscores the importance of legal process and due procedure in any deprivation of rights by the state.

The Supreme Court has interpreted this to mean that any action by the state that affects the life or personal liberty of an individual must be lawful, just, and fair, and must adhere to principles of natural justice.

Expanded Scope Over the years, the Supreme Court has expanded the scope of Article 21 to encompass various other rights and entitlements that are necessary for the full realization of human dignity.

This includes rights such as the right to clean air and water, the right to housing, the right to information, and the right to access to justice.

In summary, the scope of Article 21 is not limited to the literal text of the provision but encompasses a broad range of rights and entitlements that are essential for the protection of human dignity and the promotion of a just and equitable society.

3.4 Relationship with Other Fundamental Rights

Article 21 does not exist in isolation but is intricately connected with other fundamental rights enshrined in the Constitution. There is an interplay between Article 21 and other fundamental rights, such as the right to equality, freedom of speech, and protection against discrimination. Understanding how Article 21 harmonizes with these rights is crucial for a holistic appreciation of the constitutional framework and the delicate balance it seeks to maintain between individual liberties and societal interests.⁵

By dissecting the literal interpretation, judicial constructions, scope, and relationship with other fundamental rights, this section aims to offer a comprehensive view of Article 21. The interplay of these elements contributes to a dynamic understanding of this fundamental right, reflecting the evolving nature of constitutional jurisprudence in India.

4. LANDMARK JUDGMENTS SHAPING ARTICLE 21 JURISPRUDENCE

Landmark judicial decisions play a pivotal role in shaping the interpretation and application of constitutional provisions. In the case of Article 21, several key judgments have significantly contributed to the development of its jurisprudence, expanding its scope and clarifying its nuances. This section explores five landmark judgments that have played a crucial role in shaping Article 21 jurisprudence.

4.1 Maneka Gandhi v. Union of India (1978)⁶

Maneka Gandhi's case stands as a watershed moment in Indian constitutional history, fundamentally altering the understanding of Article 21. The Supreme Court, in a landmark decision, expanded the scope of the right to life and personal liberty by interpreting it in a dynamic and holistic manner. The court declared that the procedure established by law must be fair, just, and reasonable, paving the way for a broader understanding of the principles of natural justice.

4.2 Olga Tellis v. Bombay Municipal Corporation (1985)⁷

In the Olga Tellis case, the Supreme Court grappled with the right to livelihood as an integral part of the right to life under Article 21. The court held that the forced eviction of pavement dwellers without providing alternative arrangements violated their right to life. This judgment marked a significant shift in recognizing socio-economic rights within the ambit of Article 21, emphasizing the right to livelihood as an essential facet of the right to life.

⁵ M.P. Jain. (2019). Indian Constitutional Law. Lexis Nexis.

⁶ AIR1978 SCR (2) 621

⁷ Olga Tellis v. Bombay Municipal Corporation (1985) 3 SCC 545 Important case regarding the right to livelihood under Article 21.

4.3 Gopalan v. State of Madras (1950)⁸

While Gopalan's case predates Maneka Gandhi, it remains crucial in understanding the early interpretations of Article 21. The judgment narrowly construed the right to life and personal liberty, emphasizing a literal interpretation. However, subsequent developments, especially in Maneka Gandhi, expanded the understanding of this right, departing from the restrictive interpretation laid down in Gopalan.

4.4 Hussainara Khatoon v. Home Secretary, State of Bihar (1979)

The Hussainara Khatoon case addressed the issue of prolonged and unjust incarceration, highlighting the right to speedy trial as an essential component of the right to life and personal liberty. The court held that prolonged detention without a fair and speedy trial violates the fundamental rights guaranteed under Article 21. This decision emphasized the need for expeditious justice delivery to safeguard individual liberties.

4.5 Sunil Batra v. Delhi Administration (1978)

Sunil Batra's case dealt with the rights of prisoners and highlighted the significance of the right to live with dignity within the prison system. The court held that the right to life and personal liberty is not extinguished upon incarceration and that prisoners retain their fundamental rights. This judgment laid the foundation for recognizing the humane treatment of prisoners as an essential aspect of the right to life under Article 21.

These landmark judgments collectively contribute to the rich tapestry of Article 21 jurisprudence, reflecting the judiciary's evolving understanding of fundamental rights and their significance in a democratic society. The interpretations and principles established in these cases have had a lasting impact, influencing subsequent decisions and contributing to the progressive development of constitutional law in India.

5. EXPANDING HORIZONS RIGHT TO PRIVACY AND ENVIRONMENTAL JURISPRUDENCE

Article 21, with its intrinsic commitment to protecting life and personal liberty, has been at the forefront of expanding legal boundaries to include emerging rights and concerns.

5.1 Right to Privacy and Article 21

The intersection between the right to privacy and Article 21 has gained unprecedented attention in recent years. The right to life enshrined in Article 21 has been liberally interpreted so that to mean more than mere survival and mere existence or animal existence. It thus includes all those aspects of life that makes a man's life meaningful, complete and price living and right to privacy is one such right.⁹ The first time this subject was ever raised was within the case of **Kharak Singh vs. State of UP**¹⁰ where the Supreme Court held that Regulation 236 of UP Police Regulation was unconstitutional because it clashed with Article 21 of the Constitution. It had been held by the Court that the right to privacy could be a part of right to protection of life and private liberty. The judiciary through landmark cases such as Justice K.S. Puttaswamy (Retd.) v. Union of India (2017), has recognized the right to privacy as an integral component of personal liberty under Article 21.

5.2 Environmental Rights and Article 21

As environmental concerns take center stage in global discourse, Article 21 has been invoked to address the right to a clean and healthy environment. Cases such as M.C. Mehta v. Union of India (1987) and Subhash Kumar v. State of Bihar (1991) have been instrumental in recognizing the right to a pollution-free environment as an integral facet of the right to life under Article 21. The right to a healthy environment is not explicitly mentioned in Article 21 of the Indian Constitution. However, the Supreme Court of India has interpreted the right to life under Article 21 expansively to include the right to a clean and healthy environment. This interpretation has been derived from various constitutional provisions, principles of international law, and judicial decisions.

⁸ A.K. Gopalan v. State of Madras (1950) SCR 88 Early interpretation of Article 21 concerning personal liberty

⁹ Divya Bhardwaj, "Right to Privacy Are We Ready for it," AIR 2004 Journal

¹⁰ 1964 SCR (1) 332

In the case of *Subhash Kumar v. State of Bihar* (1991), the Supreme Court held that the right to life under Article 21 includes the right to a pollution free environment. The Court emphasized that a clean environment is essential for the enjoyment of life and is therefore integral to the right to life.

6. COMPARATIVE ANALYSIS ARTICLE 21 IN INTERNATIONAL PERSPECTIVES

Article 21, while intrinsic to the Indian Constitution, shares conceptual similarities and distinctions with analogous provisions in other international frameworks. This section conducts a comparative analysis, juxtaposing Article 21 with similar rights in the European Convention on Human Rights, the United States Constitution, and the South African Constitution.

From an international perspective, the concept of the right to life and personal liberty, as enshrined in Article 21 of the Indian Constitution, aligns with principles recognized in various international human rights instruments. Here's how Article 21 relates to international perspectives.

6.1 Universal Declaration of Human Rights (UDHR)

The UDHR, adopted by the United Nations General Assembly in 1948, recognizes the inherent dignity and equal rights of all members of the human family.

Article 3 of the UDHR states "Everyone has the right to life, liberty, and security of person," echoing the principles embodied in Article 21 of the Indian Constitution.

6.2 International Covenant on Civil and Political Rights (ICCPR)

The ICCPR, to which India is a signatory, is a key international human rights treaty that protects civil and political rights.

Article 6 of the ICCPR affirms the right to life, stating that "Every human being has the inherent right to life. This right shall be protected by law."

While Article 21 of the Indian Constitution does not explicitly mention the right to life, its interpretation by the Indian judiciary encompasses similar principles of protection of life and personal liberty.

6.3 International Jurisprudence

International human rights bodies, such as the United Nations Human Rights Committee and the European Court of Human Rights, have recognized and interpreted the right to life and personal liberty in a manner consistent with Article 21 of the Indian Constitution.

These bodies have emphasized the importance of ensuring that any deprivation of life or liberty is lawful, necessary, and proportionate, and that due process rights are respected.

7. CHALLENGES AND CRITICISMS

The recognition and application of Article 21, while pivotal in upholding individual liberties, have not been immune to challenges and criticisms. Article 21 of the Indian Constitution, while foundational to the protection of life and personal liberty, has faced challenges and criticisms over the years. Some of the key challenges and criticisms include.

7.1 Limited Scope of Enforcement Despite the expansive interpretation of Article 21 by the judiciary, there are challenges in effectively enforcing its provisions, particularly in marginalized and vulnerable communities.

Access to justice and legal remedies remains a challenge for many individuals, especially those from disadvantaged backgrounds, hindering their ability to assert their rights under Article 21.

7.2 Judicial Activism vs. Judicial Restraint The expansive interpretation of Article 21 by the judiciary, often referred to as judicial activism, has been criticized by some as judicial overreach.

Critics argue that the judiciary, by expanding the scope of Article 21 to include socio-economic rights and policy matters, has encroached upon the domain of the legislature and executive, leading to concerns about the separation of powers.

7.3 Inadequate Protection of Socio-Economic Rights While Article 21 has been interpreted to include various socio-economic rights, such as the right to food, shelter, and healthcare, there are criticisms that these rights are not adequately protected in practice.

Issues such as poverty, inequality, and lack of access to basic necessities continue to pose significant challenges to the realization of socio-economic rights under Article 21.

7.4 Legal Ambiguity and Uncertainty

The language of Article 21, particularly the phrase "procedure established by law," has been criticized for its ambiguity and lack of clarity.

Critics argue that this ambiguity leaves room for arbitrary interpretation and inconsistent application by the judiciary, leading to uncertainty regarding the scope and application of the right to life and personal liberty.

8. CONTEMPORARY ISSUES AND FUTURE DIRECTIONS

As society evolves, new challenges emerge that test the adaptability and relevance of constitutional provisions. This section examines how Article 21 grapples with contemporary issues, including the impact of technology on personal liberties, responses to public health emergencies, and the intersection with environmental protection in the face of climate change.

8.1 Technology and Article 21

Negative Impact

a. **Surveillance and Privacy Concerns** While surveillance technology can enhance security, it also raises concerns about privacy and the potential for abuse by authorities. Widespread surveillance measures could infringe upon the right to privacy, a crucial aspect of personal liberty under Article 21.

b. **Digital Divide** The unequal access to technology, commonly referred to as the digital divide, can exacerbate existing disparities in access to justice and essential services, limiting the ability of marginalized communities to exercise their rights under Article 21.

c. **Technological Discrimination** Biased algorithms and AI systems have the potential to perpetuate discrimination and inequality, particularly in areas such as law enforcement and criminal justice, affecting the right to fair treatment and due process guaranteed under Article 21.

d. **Cyber Threats** The proliferation of cybercrime poses new challenges to the protection of personal liberty and security. Threats such as hacking, identity theft, and online harassment can compromise individuals' rights and safety in the digital realm.

8.2 Climate Change and Environmental Protection

Health Impacts Environmental degradation, exacerbated by climate change, contributes to air and water pollution, deforestation, and loss of biodiversity, all of which have adverse effects on public health.

Protecting the environment is crucial for safeguarding public health and ensuring access to clean air, water, and food, which are essential for the realization of the right to life and personal liberty.

Vulnerability of Marginalized Communities Climate change disproportionately affects marginalized and vulnerable communities, including indigenous peoples, rural populations, and low-income groups, who often bear the brunt of environmental degradation and climate-related disasters.

9. CONCLUSION

9.1 Recapitulation of Key Findings

In revisiting the key findings, this research has explored the historical context of Article 21, its textual interpretation, landmark judgments shaping its jurisprudence, and its comparative analysis with international counterparts. The challenges and criticisms, ranging from judicial activism to socio-economic implications, have been scrutinized. Furthermore, the contemporary issues of technology, public health emergencies, and climate change have been examined in the context of Article 21.

9.2 Reflection on the Evolving Landscape of Article 21

As we conclude, it is evident that Article 21 is not static but dynamic, adapting to the evolving needs of society. Despite challenges and criticisms, the enduring relevance of Article 21 in upholding individual liberties remains indisputable. Looking ahead, the evolving landscape of Article 21 necessitates continued scrutiny and adaptability to ensure that it serves as a robust protector of personal liberties in the face of emerging challenges.

In this context, this research contributes to the broader discourse on constitutional rights and human liberties. By understanding the historical foundations, legal interpretations, challenges, and contemporary relevance of Article 21, we are better equipped to appreciate its enduring impact on the lives of individuals and society at large. As we move forward, the call for a vigilant and responsive legal framework continues to be paramount to uphold the principles enshrined in Article 21 and ensure justice, equity, and individual freedoms for generations to come.

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