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THE EXPANDING HORIZONS OF ARTICLE 21: A STUDY IN JUDICIAL CREATIVITY.

Abstract

Article 21 of the Constitution of India, originally envisaged as a narrow protection against executive action without authority of law, has over time evolved into a repository of substantive rights. Judicial interpretation has progressively expanded its scope to include rights essential for the full development of human personality, such as the right to livelihood, health, privacy, education, and a clean environment. This paper examines the transformative journey of Article 21, analyzing its expansive interpretations and its pivotal role in securing human dignity.

Keywords

Article 21, Fundamental Rights, Right to Life, Judicial Activism, Constitutional Law, Human Dignity.

Introduction

The Constitution of India guarantees certain fundamental rights that form the bedrock of the democratic structure. Among these, Article 21 holds a distinctive position. It provides that "No person shall be deprived of his life or personal liberty except according to procedure established by law." Initially, the interpretation of this article was restrictive, as seen in *A.K. Gopalan v. State of*

Madras.^[^1] However, subsequent judicial pronouncements, particularly in *Maneka Gandhi v. Union of India*,^[^2] marked a paradigm shift, expanding the meaning of "life" and "personal liberty" to encompass a variety of rights necessary for leading a meaningful existence.

This paper traces the trajectory of Article 21, highlighting how the Supreme Court has used it as a springboard for recognizing diverse human rights, thereby making the Indian Constitution a living document responsive to the needs of the society.

Introduction of Article 21:

Article 21 of the Indian Constitution guarantees the protection of life and personal liberty to every individual. It provides that no person shall be deprived of their life or personal liberty except according to a procedure established by law. Originally given a narrow interpretation, Article 21 has undergone a remarkable expansion through judicial creativity. The Supreme Court has interpreted "life" to mean a life of dignity, not just mere animal existence, and "personal liberty" to include a wide range of rights essential for living a meaningful life.

Today, Article 21 serves as the foundation for various rights such as the right to livelihood, health, education, privacy, clean environment, and speedy trial, among others. It applies to both citizens and non-citizens and remains a cornerstone for human rights protection in India. Thus, Article 21 reflects the spirit of a welfare State and ensures that the State acts fairly, justly, and reasonably when affecting individual freedoms.

Horizons under Article 21 on India Constitution:

Article 21 of the Indian Constitution has undergone a dynamic transformation since its inception. Originally interpreted narrowly, it merely protected against deprivation of life and personal liberty without the authority of law. However, judicial creativity has expanded the horizons of Article 21 far beyond its literal meaning. The Supreme Court has recognized that "life" under Article 21 is not mere animal existence, but a life imbued with dignity, freedom, and all basic necessities. Personal liberty too has been interpreted to include various rights essential for a meaningful human life. Through landmark judgments, the judiciary has continuously broadened the scope of Article 21, embracing rights such as the right to livelihood, education, health, privacy, shelter, clean environment, and speedy justice. Thus, the expanding horizons of Article 21 reflect the progressive spirit of constitutional interpretation and the growing recognition of human dignity as the foundation of a just society.

Original Interpretation: A.K. Gopalan (1950). In the first major test, *A.K. Gopalan v. State of Madras* (1950), the Supreme Court took a formal view of Article 21. Gopalan had been detained under the Preventive Detention Act, 1950, and argued that the detention violated his fundamental rights, including Article 21. A six-judge bench of the Court upheld the detention law almost in full.

Critically, it held that "procedure established by law" simply means any procedure that a legislature enacts; there is no independent requirement that the law be fair, just

or reasonable. By reading Article 21 in isolation, the Court rejected the notion of “due process” in substantive form. The Gopalan majority treated the various fundamental rights as separate silos, refusing to read Articles 14 or 19 into Article 21. The practical effect was that Article 21 offered no safeguard beyond checking that the detention order had been issued under some law; any law, however arbitrary, could sustain deprivations. In short, Gopalan confirmed that Article 21’s “procedure established by law” did not require judges to apply the American-style due process test. This narrow understanding stood for nearly three decades.

The Maneka Gandhi Revolution (1978). The jurisprudence took a decisive turn in *Maneka Gandhi v. Union of India* (1978). *Audi alteram partem* which means here the other side. It's a principle of natural justice the court have stressed that life and liberty can't be curtailed without following fair procedure - procedural fairness is a core of Article 21. Maneka's passport was impounded by the government without giving reasons, and she challenged it under Articles 14, 19 and 21. A historic Supreme Court ruling by Justice Bhagwati overruled Gopalan. The Court held that Article 21 must be read in tandem with other fundamental rights, forming a constitutional “golden triangle” of Articles 14, 19 and 21. In Maneka's case the Court explicitly stated that the “procedure” established by law under Article 21 “must be just, fair, and reasonable” – it cannot be arbitrary or oppressive. Any law depriving a person of life or liberty must satisfy the tests of reasonableness and not violate equality or other fundamental rights. This was a fundamental shift: the Court declared that Article 21 demands substantive due process of law, despite the absence of that term in the text. Maneka Gandhi opened the door to an expansive, purposive reading of Article 21, firmly tethering it to the constitutional ethos of justice and individual dignity.

Bandhua Mukti Morcha emphasized that Article 21 guarantees the right to live with human dignity, free from exploitation. Justice Bhagwati declared that everyone has a “fundamental right... to live with human dignity” under Article 21. He held that this right takes its “life breath” from the Directive Principles and implies the State must secure basic essentials – health, nutrition, education, humane work conditions – needed for a dignified life. In effect, *Bandhua* linked welfare rights and labor protections to Article 21's guarantee.

PUCL v. Union of India (1997)

In *PUCL* (1997) the Court found privacy in Article 21. It noted that the Constitution does not expressly mention privacy, but that personal privacy is “inherent in the right to life and personal liberty” under Article 21. The Court held that telephone tapping without lawful authority violates Article 21, and it laid down strict guidelines (requiring reasons in writing, limited duration, etc.) to guard against abuse. This case established that the right to privacy is protected by Article 21 unless a valid procedure exists.

K.S. Puttaswamy v. Union of India (2017)

Puttaswamy is the landmark privacy case of 2017. A nine-judge bench unanimously held that the right to privacy is a fundamental right guaranteed by Article 21 (and other parts of Part III). The Court declared that personal autonomy – including control over one's body, information, and intimate decisions – falls under life and liberty. This judgment explicitly enshrined privacy and dignity as core components of Article 21's protection.

Hussainara Khatoon v. State of Bihar (1979)

"Ubi jus ibi remedium " it's means Where there is a right , there is a remedy. Whenever fundamental rights under Article 21 are violated, courts have not hesitate to provide remedies through writs. Hussainara Khatoon incorporated the right to a speedy trial into Article 21. The Court noted that indefinite detention of undertrial prisoners violates personal liberty, and held that every prisoner has a fundamental right to a fair and prompt trial. This decision led to the release of thousands of remand prisoners and established that justice delayed is justice denied under Article 21.

Unni Krishnan v. State of Andhra Pradesh (1993)

Unni Krishnan linked education to Article 21's right to life. The Court ruled that while higher (professional) education is not itself a fundamental right, basic education is implicit in the right to life and dignity. Interpreting Article 21 in light of the Directive Principles (Article 41), it held that the State must provide free basic schooling to children. In other words, the Constitution guarantees a child's right to a primary education as part of life and liberty.

Paschim Banga Khet Mazdoor Samity v. West Bengal (1996)

Paschim Banga Khet Mazdoor Samity expanded Article 21 to health care. The Court held that denying an injured person emergency hospital care violated the right to life.

It declared that the state has a constitutional obligation to provide medical aid and sanitation, recognizing the right to health as intrinsic to life. Thus access to health services became an essential facet of Article 21's guarantee.

Subhash Kumar v. State of Bihar (1991)

Subhash Kumar explicitly brought environmental quality within Article 21. The Supreme Court ruled that the right to life "includes the right to live in a clean and

pollution-free environment”. Pollution of water or air was held to be a violation of life and personal liberty, so the judgment read environmental protection into Article 21.

Common Cause v. Union of India (2018)

Common Cause affirmed the right to die with dignity under Article 21. The Court upheld passive euthanasia and ruled that the right to life includes the right to refuse extraordinary medical treatment and die naturally. By recognizing the right to die with dignity, this judgment further extended Article 21 to include personal autonomy at the end of life.

Judicial Expansion of Article 21: Landmark Indian Cases

Over the ensuing decades, the Supreme Court broadened Article 21 far beyond mere protection from state killing. A rich spectrum of

rights was derived from its guarantee of life and liberty. The following summary highlights key decisions:

Right to Life with Human Dignity (Francis Coralie Mullin, 1981). In *Francis Coralie Mullin v. Union Territory of Delhi* (1981), a writ was filed on behalf of prisoners detained under inhumane conditions. Justice Bhagwati famously held that the right to life includes “the right to live with human dignity”. The Court declared that life is not merely a “biological concept” but includes bare necessities such as adequate nutrition, clothing, shelter, education and health. Any state action (or inaction) that deprives a person of these essentials can violate Article 21. Mullin thus imposed a positive obligation on the state to protect basic life needs, especially for those in custody.

Right to Livelihood (Olga Tellis, 1985). In *Olga Tellis v. Bombay Municipal Corporation* (1985), pavement dwellers challenged eviction orders. A five-judge Bench held that the scope of “life” under Article 21 is “wide and far-reaching”.

The Court observed that an important facet of the right to life is the right to livelihood, because “no person can live without the means of livelihood”. Depriving a person of work or subsistence threatens life itself. Thus while the state is not bound to provide jobs, any deprivation of livelihood without a just, fair and reasonable procedure violates Article 21. The Court warned that otherwise the easiest way to kill the Constitution’s guarantee would be to deprive a person of means of living. This principle has since been applied in cases of labour rights and welfare entitlements.

Right to Health and Welfare (Later Cases). Building on Mullin, the Court in *State of Punjab v. Mohinder Singh Chawla* (1997) and other cases held that medical care is part of life’s dignity. In the *State of Karnataka v. N.M. Thomas* line of cases, the Court recognized education as implicit in life (e.g. *Mohini Jain v. Karnataka*, 1992, and *Unni*

Krishnan v. AP, 1993). In *Sunil Batra v. Delhi Administration* (1978) the Court approved that prisoners have a right to humane treatment and health care. These rights have not usually been separately enumerated, but the trend is clear: Article 21 now encompasses a broad “welfare” dimension for dignified life.

Environmental Rights (M.C. Mehta and Others). Beginning in the 1980s, public interest litigation extended Article 21 to environmental protection. Notably, in *M.C. Mehta v. Union of India* (1987) – “*Salus populi suprema lex esto*” it means The welfare of the people shall be the supreme law. Court's have expanded the meaning of life to include health, environment, education, and dignity- all essential for public welfare famous *Shriram gas leak case* – the Supreme Court explicitly recognized that “the right to life includes the right to live in a pollution-free environment.” As one commentator notes, after *Mullin* the Court “soon after recognized the right to live in a pollution-free environment in *M.C. Mehta v. UOI* (1985)”. Similarly, in *Vellore Citizens Welfare Forum v. Union of India* (1996) the Court held clean air and water as facets of Article 21. These decisions impose obligations on industry and governments to prevent environmental harm, viewing ecological quality as essential to life’s dignity.

Protection from Exploitation (Bandhua Mukti Morcha, 1984). In *Bandhua Mukti Morcha v. Union of India* (1984), the Court addressed child labour, bonded labour and prison labor. It emphatically characterized Article 21 as guaranteeing the fundamental right to live with human dignity, free from exploitation. Justice Bhagwati observed that this right “derives its life breath from” Directive Principles and must include protection of health and strength of workers and children. The Court listed minimum requirements (work conditions, education, maternity relief) that governments cannot abridge without offending Article 21. *Bandhua* thus infused Article 21 with a strong social-justice ethos.

Right to Speedy Trial and Fair Procedure. In *Hussainara Khatoon v. State of Bihar* (1979), the Court held that an unduly delayed trial – amounting to “death by incarceration” – violated Article 21. Every accused has a right to a trial within a reasonable time, and failure to provide speedy justice effectively deprives life and liberty. Similarly, *Sunil Batra* and *Maneka* emphasized the need for fair legal procedures (e.g. legal aid, notice of allegations) before deprivations.

Right to Privacy and Informational Autonomy. In *R. Rajagopal v. State of Tamil Nadu* (1995) and later in *People’s Union for Civil Liberties v. Union of India* (1997), the Court held that the right to privacy (for example, private correspondence and telephone conversations) is implicit in Articles 21 and 19(1)(a). In the *PUCL* case, the Court stressed that even though the Constitution did not explicitly guarantee privacy, it is “inherent in the right to life and personal liberty”. Consequently, state action (such as telephone tapping) must meet stringent procedural safeguards. Finally, in *K.S. Puttaswamy v. Union of India* (2017), a nine-judge bench unanimously confirmed that the right to privacy is a fundamental right under Article 21, protected by due process.

These cases illustrate how the Court's creative interpretation has yielded new rights under Article 21, making it the vehicle for realizing a wide range of human needs and freedoms.

International and Comparative Perspectives

India's jurisprudence under Article 21 parallels global developments under analogous provisions, especially the American due process clause. In the United States, the Fifth and Fourteenth Amendments prohibit deprivation of life or liberty without due process of law. U.S. courts have interpreted "due process" to include not only procedural fairness but also substantive fundamental rights. For example, the Warren Court extended due process to cover unenumerated rights like privacy (*Griswold v. Connecticut*, 1965) and personal autonomy (*Roe v. Wade*, 1973), and continues to use it to safeguard marriage equality (*Obergefell v. Hodges*, 2015). As one commentator notes, the Fourteenth Amendment enjoins states from depriving any person of life, liberty or property without due process. Under substantive due process, courts can protect interests not explicitly listed in the Constitution; privacy is a classic example. Indeed, the right to privacy "is not expressly mentioned" but "can be inferred" as a component of due process.

Indian courts have cited this American paradigm in *Maneka* and later cases.

Elsewhere, other constitutional systems show similar or contrasting patterns.

In Japan, Article 31 uses nearly identical wording to Article 21, but Japanese courts have historically taken a narrow, procedural view and have not expansively read in unenumerated rights. By contrast, many modern constitutions explicitly protect dignity and socio-economic rights. For instance, South Africa's Constitution entrenches dignity as an independent value, and its courts have recognized extensive positive obligations on the state. The Canadian Charter (s.7) guarantees life, liberty and security "except in accordance with principles of fundamental justice," which has been used to uphold health care rights and autonomy in medical decision-making. Even international human rights law, through instruments like the ICCPR (Article 6) and regional covenants, has moved toward requiring affirmative protection of life and dignity (see General Comment No.36 on the right to life). In Bangladesh and Pakistan, courts have likewise interpreted their life-liberty guarantees to include fair procedures and a dignified existence, though often within limits. On balance, India's Article 21 jurisprudence is among the most expansive globally – more like the broad U.S./South African models than the restrictive ones – reflecting a confident judicial role in rights expansion.

Judicial Creativity: Necessity, Impact, and Critique

The imaginative expansion of Article 21 has had profound impact. By invoking a living interpretation, the courts have plugged gaps where legislatures have been silent. Groups most affected by poverty, discrimination or environmental harm have found redress under Article 21 in ways that no classical fundamental right originally foresaw. Many social reforms (education policy, occupational safety, pollution control) have been spurred by judicial orders grounded in Article 21. Proponents of this “judicial creativity” argue it is necessary for a dynamic constitution to remain relevant and to fulfill the promise of social justice. As one scholar observed, Maneka Gandhi marked “the moment when the Supreme Court inaugurated a new path where Courts would expand the rights of individuals against the State”.

However, this judicial activism has its critics. Concerned voices caution that unelected judges may overstep by effectively making policy or creating rights out of thin air. Detractors warn that reading too much into one short article risks undermining democratic accountability and blurring separation of powers. Some argue that certain expansions go beyond the framers’ intent and impose obligations better left to legislatures (for example, providing free healthcare or shelter). There have been calls (including by former judges and parliamentary committees) for restraining activism and ensuring deference to elected lawmaking. In recent years, the Court itself has begun to articulate limits: for instance, it reaffirmed that Article 21 protections attach only to deprivations effected by law, and that laws must be reasonable (see *Anuradha Bhasin v. Union of India*, 2020).

Even Justice Nariman, a leading liberal voice, acknowledged in *Puttaswamy* that India had come “full circle” to embrace a form of substantive due process ^[41†source] – implicitly conceding the initial gap.

Ultimately, most commentators call for a balanced approach. The judiciary must be vigilant to protect life and liberty, but should also respect democratic policy choices. Activism is justified to correct severe injustices (e.g. bonded labor, child exploitation, environmental disasters), yet courts should exercise restraint where factual policy trade-offs are best left to legislatures. A calibrated middle path – where courts enforce minimum standards of justice but allow space for legislation and public debate – is widely recommended.

Conclusion

In sum, Article 21 has grown from a narrow provision into a powerful wellspring of rights, largely through judicial interpretation. From A.K. Gopalan’s restrictive reading to Maneka’s liberating “golden triangle,” the trajectory of jurisprudence has been profoundly creative. Today Article 21 is understood to guarantee dignity, health, livelihood, environmental quality, privacy and more, reflecting the needs of a changing society. This evolution underscores the dynamic character of India’s Constitution but also reminds us of the tension between judicial innovation and institutional limits. The challenge ahead is to preserve the core promise of Article 21 – that every person may live a life of dignity and freedom – while ensuring that this promise is fulfilled through inclusive democratic processes as well as vigilant courts.

References:

cases mentioned include A.K. Gopalan v. State of Madras (1950), Hussainara Khatoon v. State of Bihar (1979) Maneka Gandhi v. Union of India (1978), Francis Coralie Mullin v. Delhi (1981), Olga Tellis v. BMC (1985), M.C. Mehta v. UoI (1987), Bandhua Mukti Morcha v. UoI (1984), Subhash Kumar v. State of Bihar (1991), Unni Krishnan v. State of Andhra Pradesh (1993) , Paschim Banga khet Mazdoor Samity v. West Bengal (1996), PUCL v. UoI (1997), and K.S. Puttaswamy v. UoI (2017), among others, Bandhua Mukti Morcha, PUCL v. Union of India (1997), K.S. Puttaswamy v Union of India (2017) Common Cause v. Union of India (2018), International comparisons draw on U.S. Due Process jurisprudence and analogous developments in other constitutional systems.