INDIAN JOURNAL OF LEGAL REVIEW

VOLUME 6 AND ISSUE 1 OF 2026

INSTITUTE OF LEGAL EDUCATION

INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN - 2583-2344

(Open Access Journal)

Journal's Home Page – https://ijlr.iledu.in/

Journal's Editorial Page - https://ijlr.iledu.in/editorial-board/

Volume 6 and Issue 1 of 2026 (Access Full Issue on - https://ijlr.iledu.in/volume-6-and-issue-1-of-2026/)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 73059 14348 - info@iledu.in / Chairman@iledu.in

© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer https://ijlr.iledu.in/terms-and-condition/

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 6 AND ISSUE 1 OF 2026
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by
Institute of Legal Education
https://iledu.in

HUMANIZING ARTICLE 21: THE INDIAN JUDICIARY'S JOURNEY FROM MANEKA TO NAVTEJ SINGH IN DIALOGUE WITH INTERNATIONAL HUMAN RIGHTS NORMS

AUTHOR - ELAINA YALDO & V.R.GOUREE KRISHNA

STUDENTS AT SCHOOL OF LEGAL STUDIES, COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY (CUSAT)

BEST CITATION - ELAINA YALDO & V.R.GOUREE KRISHNA, TANISHKA SHAH, JAYANT SHARMA, ANANYA, MANVI SHARDA, RIDHIMA PHULORIA, HUMANIZING ARTICLE 21: THE INDIAN JUDICIARY'S JOURNEY FROM MANEKA TO NAVTEJ SINGH IN DIALOGUE WITH INTERNATIONAL HUMAN RIGHTS NORMS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR),* 6 (1) OF 2026, PG. 107-115, APIS – 3920 – 0001 & ISSN - 2583-2344. DOI – https://doi.org/10.65393/CLWU3605

Article 21 says- "No person shall be deprived of his life or personal liberty except according to a procedure established by law."[289]

According to Justice P. Bhagwati's ruling in *Francis Coralie Mullin v. The Administrator*[290] 1981 SCR (2) 5162, Article 21 "embodies a constitutional value of supreme importance in a democratic society." Additionally, Article 21 was described by Justice Iyer as **"the procedural Magna Carta protective of life and liberty."** The core of the Constitution is Article 21.

[289] Constitution of India 1950, art 21.
[290] Francis Coralie Mullin v Administrator, Union Territory of Delhi (1981) 2 SCR 516 (SC).

Originally restricted to a narrow procedural scope, Article 21 has been judicially turned into a rich source of substantive rights. In accordance with the court's ruling in *M/S Entertainment Network v. M/S Super Cassette Industries,*[291] the judiciary has interpreted Article 21 to include a number of rights, such as the right to livelihood, health, education, privacy, and a clean environment, through landmark decisions and references to international law.

The ruling in ***Maneka Gandhi v. Union of India*** (1978)[292] marked a pivotal moment in Indian constitutional law, especially regarding the development of Article 21. The Supreme Court of India held that the right to personal liberty includes the freedom to travel and leave the country. It stated that the term "personal liberty" under Article 21 has a broad meaning, covering various rights related to an individual's personal freedom. Consequently, the scope of personal liberty was significantly broadened to include all rights guaranteed by Article 21 as well as other rights connected to personal liberty. Any restriction on this right must follow a legally established procedure that is "fair, just, and reasonable," and not arbitrary, oppressive, or whimsical, thereby underscoring the importance of natural justice principles.[293]

In *Sathwant Singh Sawhney v. D. Ramanathan, Assistant Passport Officer, New Delhi,*[294] the Court additionally ruled that the right to travel abroad is included in an individual's personal liberty as defined under Article 21.

With these, the Supreme Court harmonized our domestic constitutional law with international human rights instruments such as Article 13 of Universal Declaration of Human Rights (UDHR), 1948 which states that:

1. Everyone has the right to freedom of movement and residence within the borders of each state.
2. Everyone has the right to leave any country, including his own, and to return to his country.[295]

as well as Article 12 of International Covenant on Civil and Political Rights (ICCPR), 1966 [296]which further states that:

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

reinforcing India's commitment as a signatory to the UDHR[297] and ratifier to ICCPR.[298]

In addition to these, Article 2 of Protocol 4 of European Convention on Human Rights also provides for Freedom of movement.[299]

In the case of *Kharak Singh v. State of U.P. and Others,*[300] it was determined that protection from intrusions into one's private life and restrictions on one's movement are included within the right to personal liberty. Consequently, all other freedoms not specifically addressed under Article 19(1) were considered to fall under the scope of personal liberty. [301]

[291]Entertainment Network (India) Ltd v Super Cassette Industries Ltd (2008) Civil Appeal No 5114 of 2005 (SC).
[292]Maneka Gandhi v Union of India AIR 1978 SC 597.
[293]IJLR Editorial Board, 'Right to Travel Abroad in Light of Article 21 of Indian Constitution' (IJLR, 2024) https://ijlr.iledu.in/wp-content/uploads/2024/08/V4I2113.pdf accessed 4 August 2025.
[294]Satwant Singh Sawhney v D Ramarathnam, Assistant Passport Officer, New Delhi AIR 1967 SC 1836.

[295] Universal Declaration of Human Rights adopted 10 December 1948, UNGA Res 217 A(III), art 13.
[296] International Covenant on Civil and Political Rights, adopted 16 December 1966, 999 UNTS 171, art 12.
[297] IHRA, *Human Rights Law in India* https://www.ihra.co.in/uploads/pdf/Human_rights_law_in_India.pdf accessed 4 August 2025.
[298] United Nations Human Rights Committee, 'Fourth Periodic Report: India', submitted under the International Covenant on Civil and Political Rights.
[299] Constitutional Court of Bosnia and Herzegovina, 'Article 2 of Protocol No. 4 to the ECHR – Freedom of Movement' https://www.ustavnisud.ba/en/article-2-of-protocol-no-4-to-the-echr-freedom-of-movement accessed 4 August 2025.
[300] Kharak Singh v State of Uttar Pradesh AIR 1963 SC 1295.
[301] IJLR Editorial Board, 'Right to Travel Abroad in Light of Article 21 of Indian Constitution' (IJLR, 2024) https://ijlr.iledu.in/wp-content/uploads/2024/08/V4I2113.pdf accessed 4 August 2025.

This has expanded Article 21 as well as emphasized on Article 19(1)(d) of the Constitution of India, 1950[302] further corroborated by Article 3[303] and 12 of UDHR,1948[304] respectively as well as Article 9(1) of ICCPR, 1966 stating "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law"[305] and Article 17 of ICCPR, 1966.[306]

Right to Privacy—In a significant decision, a nine-judge Bench of the Supreme Court in ***K.S. Puttaswamy v. Union of India***[307] declared that privacy is a constitutionally protected right, primarily derived from the guarantees of life and personal liberty under Article 21 of the Constitution. Aspects of privacy also stem from various dimensions of freedom and dignity safeguarded by the fundamental rights outlined in Part III of the Constitution. The court emphasized that privacy is at the constitutional heart of human dignity.

The court also acknowledged the Universal Declaration of Human Rights of 1948, along with the two later legally binding treaties—the ICESCR and ICCPR, both adopted in 1966—as backing the recognition of the right to privacy as a fundamental and "inalienable" human right.[308]

Consequently, Article 21 of the Indian Constitution has evolved into a broad repository of human rights, with judicial interpretation serving as a crucial mechanism for incorporating rights such as privacy within its scope often drawing inspiration from international jurisprudence.

In the case of *Vikram Deo Singh Tomar v. State of Bihar* (1988),[309] the Supreme Court of India notably broadened the interpretation of Article 21 of the Constitution, which ensures the right to life and personal liberty. The case addressed the poor conditions faced by women inmates in a protective home in Bihar, and the Court, led by Justice Bhagwati, ruled that the right to life under Article 21 encompasses the right to live with human dignity.

By interpreting Article 21 in light of international human rights instruments, particularly Article 25(1) of UDHR, 1948[310] which states that:

1. Everyone has the right to a standard of living adequate for the health and well-being
   of himself and of his family, including food, clothing, housing....."

and Article 12(1) of Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),[311] the Court emphasized that the State has a duty to ensure not merely physical survival but also conditions that respect and uphold human dignity. This case marked a pivotal moment where international human rights norms were expressly recognized as reinforcing constitutional guarantees, thereby promoting a rights-based, humanitarian approach to constitutional interpretation.

In *Occupational Health and Safety Association v. Union of India* (2014)[312]the Supreme Court reaffirmed that the right to safe and humane working conditions is included within the right to life with dignity under Article 21. The Court directed the High Courts to examine the conditions in thermal power plants within their jurisdictions and held the State responsible for

[302] Constitution of India 1950, art 19.
[303] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 3.
[304] ibid art 12.
[305] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 9(1).
[306] ibid art 17.
[307] K S Puttaswamy v Union of India (2017) 10 SCC 1 (SC) (Nine-judge Bench).
[308] 20 K C Joshi, Constitutional Law of India (2016) 246–73.
[309] Vikram Deo Singh Tomar v State of Bihar (1988) Supp SCC 734.
[310] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 25(1).
[311] Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 art 12(1).
[312] Occupational Health and Safety Association v Union of India (2014) 3 SCC 547.

protecting the health and welfare of its workers, especially in hazardous environments. [313]

In line with international human rights principles, the Court referred to Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR),[314] which recognizes the right to an adequate standard of living and safe working conditions, and echoed Article 7(b) of the same covenant, affirming the right to "safe and healthy working conditions."[315] Though the judgment did not explicitly name the UDHR, it implicitly upheld its Article 23(1),[316] which guarantees the right to just and favourable conditions of work.

This case thus demonstrated the Court's continued commitment to using international human rights norms as interpretative tools to give meaningful content to Article 21, especially in protecting the rights and dignity of marginalized workers.

In the case of *Olga Tellis and Others v. Bombay Municipal Corporation* (1986),[317] although the lawsuit did not lead to the successful resettlement of the residents and is sometimes used by the State as a justification for eviction, it played a significant role in recognizing the Right to Livelihood as part of the Fundamental Right to Life, making it a paradoxical precedent.

Inspired by the global norm of, Article 6(1) of ICESCR,1966 which states that:

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

as well as Article 23(1) of UDHR which states:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

the Court infused Right to Livelihood into domestic constitutional jurisprudence.[318]

Chameli Singh v. State of U.P. (1996)[319] illustrates the judiciary's developing stance on acknowledging socio-economic entitlements as enforceable rights, interpreting the right to shelter as essential for achieving a dignified human life under Article 21. The Court connected shelter to wider socio-economic rights, highlighting that it involves more than merely having a roof over one's head; it also entails access to fundamental necessities such as electricity, a clean environment, water, sanitation, and other civic facilities.

Article 25(1) UDHR, 1948[320] as well as Article 11(1) of ICESCR which states that:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent, map directly to the Indian court's identification of shelter, food, education, medical care, and sanitation as essential to life under Article 21.[321]

In addition, UN CESCR General Comment No. 4 (1991)[322] also recognizes right to adequate

[313] JLR Editorial Board, 'Right to Travel Abroad in Light of Article 21 of Indian Constitution' (IJLR, 2024) https://ijlr.iledu.in/wp-content/uploads/2024/08/V4I2113.pdf accessed 4 August 2025.
[314] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 11(1).
[315] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 7(b).
[316] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 23(1).
[317] Olga Tellis v Bombay Municipal Corporation AIR 1986 SC 180.
[318] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 6(1).
[319] Chameli Singh v State of Uttar Pradesh (1996) 2 SCC 549 (SC).
[320] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 25(1).
[321] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 11(1).
[322] UN Committee on Economic, Social and Cultural Rights, 'General Comment No 4: The Right to Adequate Housing (Art 11(1) of the Covenant)' (13 December 1991) UN Doc E/1992/23.

housing[323]and this holistic concept of shelter closely mirrors the interpretation given in Chameli Singh.

In the 1987 case of *M.C. Mehta and Another v. Union of India*,[324] also known as the **Shriram Food and Fertilizer Case**, the court held the industry responsible for its negligence and ordered it to pay Rs 20 lakh in compensation to the victims. The ruling also led to mandatory employee training, the installation of alarm systems to detect leaks, and the creation of an Expert Committee to oversee industrial safety. This case marked a significant shift in environmental law by introducing the concept of absolute liability for companies handling hazardous substances. Additionally, the Court recognized that Article 21 of the Constitution guarantees the right to a healthy environment.

The Court aligned its reasoning with evolving international environmental norms by referencing the Rio Declaration on Environment and Development (1992) (Principles 15 & 16,[325] the Environmental Liability Directive (ELD) 2004/35/EC,[326] and The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989.[327]These frameworks emphasize the precautionary and polluter-pays principles, the prevention and restoration of environmental damage, and the environmentally sound management of hazardous wastes, including minimizing their generation and transport.

In *Paschim Banga Khet Mazdoor Samity & Ors v. State of West Bengal & Anr.*,[328] the Supreme Court held that the right to emergency medical treatment is an essential part of the right to life under Article 21 of the Constitution. The Court ruled that the State is constitutionally obligated to offer immediate medical assistance, regardless of financial limitations. It found a violation of this right when government hospitals denied such care. Consequently, the Court directed the West Bengal government to compensate the petitioner and to develop a primary health care program that emphasizes emergency medical services.

The Court also harmonized Article 21 with Article 47 of the Directive Principles of State Policy, which states that it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health.[329]

Article 12 of ICESCR states that:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the still birth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.[330]

Article 25(1) of UDHR, 1948 states that "Everyone has the right to a standard of living adequate

[323] UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No 4: The Right to Adequate Housing' https://globalhealthrights.org/instruments/cescr-general-comment-no-4-the-right-to-adequate-housing accessed 4 August 2025.
[324] M C Mehta v Union of India (1987) 1 SCC 395 (SC).
[325] Rio Declaration on Environment and Development (1992), Principles 15 and 16
UN Conference on Environment and Development, *Rio Declaration on Environment and Development* (adopted 14 June 1992, Rio de Janeiro) UN Doc A/CONF.151/26 (Vol I), Principles 15–16.
[326] Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage [2004] OJ L143/56.
[327] *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* (adopted 22 March 1989, entered into force 5 May 1992) 1673 UNTS 57.
[328] Paschim Banga Khet Mazdoor Samity v State of West Bengal (1996) 4 SCC 37 (SC).
[329] Constitution of India 1950, art 47.
[330] International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 art 12.

for the health and well-being of himself and of his family, including medical care…"[331]

General Comment No. 14 (2000) of the UN Committee on Economic, Social and Cultural Rights[332] re-affirming the right to the highest attainable standard of health[333] retroactively validates the Court's recognition of emergency health care as a core obligation.

Soft Law Instruments like The Alma-Ata Declaration of 1978 emerged as a major milestone of the twentieth century in the field of public health, and it identified primary health care as the key to the attainment of the goal of Health for All.[334]

Also, WHO Constitution (1946) provides for the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.[335]

These international legal commitments have reinforced the understanding of healthcare as a right, not a privilege, and have served as persuasive sources in guiding the Supreme Court to include access to emergency medical treatment within the ambit of Article 21.

The Supreme Court assented the legalization of physician-assisted suicide (PAS), commonly known as passive euthanasia by recognising the right to die with dignity as a fundamental right under Article 21 of the Constitution, in the landmark case of ***Common Cause v. Union of India***[336] decided on 9th of March 2018. This decision is the outcome of a prolonged legal battle on the debate whether the right to life under Article 21 also includes the right to die. The beginning of this battle was the decision in *Rathinam vs Union of India*[337] *(1994)*, where the supreme court held that the Right to Life under Article 21 also includes the Right to die and that section 309 of IPC which penalizes the attempt to commit suicide is ultra vires. However, the decision was overturned by the Supreme Court in *Gian Kaur Vs State of Punjab*[338]. Later in 2011, *the Aruna Shanbag*[339] case laid the foundation of the right to die with dignity by delving into the importance of permitted passive euthanasia and making important guidelines regarding the same. The court further ruled that the High Courts can have the final word on mercy killing by invoking the "***Parens Patriae principle***" (Parents of the Nation) which enables them to act as the guardian of terminally ill patients. Finally, the common cause case sealed this debate by declaring the right to die with dignity as a fundamental right and ruling that an adult human being who has the mental capacity to make an informed decision has the right to refuse medical treatment, including the removal of life-supporting devices[340]. Even though this right is not explicitly stated as a human right in the Universal Declaration of Human Rights (UDHR) or other major international human rights conventions, many countries like Netherlands, Belgium, USA and England have legalized passive euthanasia. With little acceptance of this right in the global human rights scenario, it is a remarkable and bold decision by the Indian judiciary to recognise the right to die with dignity as a fundamental human right.

One of the major drawbacks of Indian Judiciary is the dead slow trials, especially in criminal cases that often subject the accused persons to unnecessary and oppressive incarceration and inhumane living conditions. The 1997 landmark judgment *in Hussainara Khatoon v. Home*

[331] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 25(1).
[332] UN Committee on Economic, Social and Cultural Rights, 'General Comment No 14: The Right to the Highest Attainable Standard of Health (Art 12 of the Covenant)' (11 August 2000) UN Doc E/C.12/2000/4.
[333] UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No 14: The Right to the Highest Attainable Standard of Health' https://globalhealthrights.org/instruments/cescr-general-comment-no-14-the-right-to-health accessed 4 August 2025.
[334] World Health Organization, *Declaration of Alma-Ata* (International Conference on Primary Health Care, Alma-Ata, USSR, 6–12 September 1978).
[335] Constitution of the World Health Organization (adopted 22 July 1946, entered into force 7 April 1948) 14 UNTS 185.
[336] *Common Cause v Union of India* (2018) AIR SC 1665 (Supreme Court of India).
[337] *P Rathinam v Union of India* (1994) 3 SCC 394.
[338] *Gian Kaur v State of Punjab* (1996) AIR SC 946.
[339] *Aruna Ramachandra Shanbaug v Union of India* (2011) AIR SC 1290.
[340] Sonu Sharma (edited by Oishika Banerji), *Right to Die with Dignity* (iPleaders blog, date not specified) https://blog.ipleaders.in/right-to-die-with-dignity/#Right_to_life_and_right_to_die_under_Article_21_of_the_Indian_Constitution accessed 20 July 2025.

Secretary, State of Bihar[341] was pivotal in the amelioration of this unjust situation. This Habeas Corpus writ petition was filed on behalf of many men, women and children confined behind bars for years awaiting trial regarding offences, in which even conviction would not warrant punishment more than a few months. The Apex court recognised the right to speedy trial as an inalienable fundamental right coming under the purview of Article 21 of the constitution and mandated greater access to bail, humane living conditions and a speedy trial from the time of arrest. The court derived its inspiration from the US constitution which guarantees the right to speedy trial and Article 3 of the European Convention on Human Rights[342] which asserts that every arrested or detained person shall be entitled to trial within a reasonable time.

Additionally, the Supreme court through its various landmark judgments have affirmed that a prisoner is still a human being and should not be reduced to the status of a non-person whose rights can be withheld upon the whims and fancies of administrators. In the landmark case of ***D.K. Basu v. The State of West Bengal***[343], the division bench comprising of Justice A.S. Anand and Justice Kuldip Singh upheld the protection of Fundamental Rights of detainees except when legally permissible restrictions are imposed. The judgment established procedural safeguards and elaborated a system of compensation for the victims of police abuse. The court vehemently opined that Custodial violence infringes Article 21 and Article 22(1) of the Indian Constitution and basic human rights.

In cases like State of *Andhra Pradesh v. Challa Ramakrishna Reddy*[344] and *State of Maharashtra v. Prabhakar Pandurang*[345], the SC emphasized that a detainee is entitled to all the fundamental rights unless curtailed by the constitution. Th court in the case of *Rohit Shekha v. N.D. Tiwari*[346] protected the prisoners' right to privacy by affirming that nobody should be compelled to be subjected to any kind of questioning that may intrude their privacy, not even in the case of a criminal investigation. In the notable case of *Sunil Batra v. Delhi Administration*[347], the SC ruled that solitary confinement shall only be imposed in exceptional cases where the prisoner is vehemently dangerous and his seclusion is an utmost necessity. Article 5 of the UDHR stipulates that no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. It seems that the judiciary successfully incorporated this human right in the constitution of India, thereby expanding prisoners' rights under the ambit of Article 21 and 22(1).

Discussions on the right against hunger and starvation were held for the first time in the case of *Kishen Pattnayak v. State of Orissa*[348] . The petitioner addressed the plights borne by the people of Kalahandi village due to extreme hunger and starvation that even forced them to sell their children for food in his letter to the apex court. The court directed the state government to ensure proper irrigation facilities, effective systems for mitigating natural calamities and affordable selling prices to uplift the condition of the people of Kalahandi.

The right to food was explicitly recognized as a constitutionally protected fundamental right for the first time in the landmark judgment in ***PUCL v. Union of India***[349]. On behalf of millions of starving Indian citizens lacking sufficient food following a famine, an NGO filed a writ petition under Article 32 contending the lack of ample laws to protect the right to food and freedom from starvation violates Article 21 and Article 47 of the Constitution. On 28 November 2001, SC declared a fundamental right to food under Article 21 and stated that any death caused by

[341] *Hussainara Khatoon v Home Secretary, State of Bihar* (1979) AIR SC 1369; (1979) 3 SCR 532.
[342] *European Convention on Human Rights* art 3.
[343] *DK Basu v State of West Bengal* (1997) AIR SC 610.
[344] *Challa Ramkrishna Reddy v State of Andhra Pradesh* (2000) AIR SC 2083; (2000) 4 Supreme 741.
[345] *State of Maharashtra v Prabhakar Pandurang Sangzgiri* (1966) AIR SC 424; (1966) 1 SCR 702.
[346] *Rohit Shekhar v Narayan Dutt Tiwari* (2012) 116 All India Cases 8 (Del HC).
[347] *Sunil Batra v Delhi Administration* (1980) AIR SC 1579; (1980) 2 SCR 557.
[348] *Kishen Pattnayak v State of Orissa* (1989) Supp (1) SCC 258.
[349] *People's Union for Civil Liberties v Union of India* (2007) 12 SCC 135.

malnutrition or starvation shall be considered as its violation. It also directed the government to establish several schemes, including the Mid-day Meal Scheme[350]. It is important to note that Article 25 of the UDHR[351] have recognised the right to food to be a part of the right to adequate standards of living. Moreover, Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)[352] and The United Nations Office of High Commissioner for Human Rights (OHCHR)[353] also recognise the fundamental right to be free from hunger.

In ***Khatri v. State of Bihar***[354], Justice P.N. Bhagwati emphasized that the State cannot avoid its constitutional duty to provide free legal aid to the poor by citing financial or administrative constraints. Article 39A imposes an obligation on the State to offer such aid not only during trial but also when the accused is first produced before the Magistrate and during subsequent remands. In *Suk Das v. Union Territory of Arunachal Pradesh*[355], Justice Bhagwati reaffirmed that free legal assistance at State cost is a fundamental right under Article 21, which ensures a fair, just, and reasonable procedure. This right is applicable to all accused persons who cannot secure legal services due to poverty, indigence, or being incommunicado, and the State is constitutionally required to provide legal representation when justice demands it[356].

Additionally, Justice V.R. Krishna Iyer, in *Madhav H. Hoskot v. State of Maharashtra*[357], asserted that if an imprisoned person cannot exercise their right to appeal due to lack of legal help, the Court has the power under Article 142, along with Articles 21 and 39A, to appoint counsel to ensure complete justice. He viewed this as a public duty of all branches of government to uphold the rule of law and serve the Constitution, especially in aiding the poor through effective legal provisions. The views of the court are aligned with Articles 7, 8 and 10 of the Universal Declaration of Human Rights[358] which implies that legal aid is a fundamental human right. Clause (3) of Art. 14 of the International Covenant on Civil and Political Rights[359] and Art. 6(3) of the European Convention of Human Rights[360] and Art. 8(2)(E) of the American Convention of Human Rights[361] also prescribes legal aid as a fundamental right.

The Supreme court delved into the aspects of the right to education as a fundamental right for the first time in the case of ***Miss Mohini Jain v. State of Karnataka and Ors***.[362] Where, in the absence of an express constitutional right, the Court interpreted a right to education as an inevitable ingredient for fulfilment of the right to life under Article 21. In addition, the Court held that private institutions, acting as agents of the State, have a duty to ensure equal access to, and non-discrimination the delivery of higher education. Supreme Court ruled that even though the right to education is not distinctly mentioned in the Constitution, it can be deciphered through the Preamble and a bare reading of DPSP in Part IV. The court explicitly mentioned Article 26(1) of UDHR, which promotes the right to education along with the right to general availability of technical and professional education, in its judgment.

The Supreme Court in the case of *Unnikrishnan v. State of Andhra Pradesh*[363] partially agreed

[350] Dr Y S R Murthy, *Right to Food in the Indian Constitution and Case Law: Economic, Social and Cultural Rights; Group/Collective Rights* (Inflibnet e-book, accessed 1 August 2025) https://ebooks.inflibnet.ac.in/hrdp04/chapter/right-to-food-in-indian-constitution-and-case-law/.

[351] *Universal Declaration of Human Rights* (adopted 10 December 1948 UNGA Res 217 A(III)) art 25..

[352] *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3, art 11(1).

[353] United Nations Office of the High Commissioner for Human Rights (OHCHR), *The Right to Adequate Food: Fact Sheet No 34* (2009) https://www.ohchr.org/en/publications/fact-sheets/right-adequate-food accessed 4 August 2025.

[354] *Khatri v State of Bihar* (1981) 1 SCC 627.

[355] *Suk Das v Union Territory of Arunachal Pradesh* (1986) 2 SCC 401.

[356] Alfonsa Saji, *Judicial Eagle: Guarding the Constitutional Right to Free Legal Aid* (Ramaiah College of Law blog, date unknown) https://msrcl.org/judicial-eagle-guarding-the-constitutional-right-to-free-legal-aid accessed 1 August 2025.

[357] *Madhav Hoskot v State of Maharashtra* (1978) 3 SCC 544.

[358] *Universal Declaration of Human Rights* (adopted 10 December 1948 UNGA Res 217 A(III)) arts 7, 8 and 10.

[359] *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 14(3).

[360] *European Convention for the Protection of Human Rights and Fundamental Freedoms* (adopted 4 November 1950, entered into force 3 September 1953) art 6(3).

[361] *American Convention on Human Rights* (adopted 22 November 1969, entered into force 18 July 1978) OAS Treaty Series No 36, art 8(2)(e).

[362] *Mohini Jain v State of Karnataka* (1992) AIR SC 1858.

[363] *Unni Krishnan JP v State of Andhra Pradesh* (1993) AIR SC 2178.

with the decision in Mohini Jain case by reaffirming that the right to education is a fundamental right under Article 21 and denying the opinion that RTE can be demanded at all levels. It stated that one can avail the right to free and compulsory education only until the age of 14, and from then on, the state's responsibility is subject to economic limitations.

Later, through the 86th Amendment Act of 2002[364], Article 21A which mandates the state to provide free and compulsory education to all children between the ages of 6 and 14 was incorporated under Article 21 thereby making it a fundamental right. It also Modified Article 45[365] to emphasize on early childhood care and free and mandatory education and added a new clause Article 51A(k)[366] which made it the duty of parents and guardians to ensure the education of their children aged between 6 to 14 years.

The Indian community have always had a grave prejudice against transgenders, homosexuals, queers etc. which in turn subjected them to exploitation, discrimination, ostracization, violence and humiliation in the various aspects of life including education, employment, health, and welfare. The Supreme Court through its landmark judgment in *National Legal Services Authority v. Union of India*[367], succeeded in bringing about a positive change to this vulnerable situation by recognising transgenders and hijras as the third gender. Before this judgment, the transgender community was forced to identify themselves as either of the two existing genders. The court ruled that non-recognition of the third gender is a violation of the basic human rights enshrined in the constitution under Article 21,14, 15 and 16. Another landmark case which uplifted the Indian LGBTQ community was the judgment in ***Navtej Singh Johar v. The Union of India***[368] in which the five-judge constitutional bench unanimously decided that the criminalisation of consensual sexual intercourse between adults of the same sex/gender as per Section 377 of IPC is unconstitutional as it is a violates the constitutional rights guaranteed under Article 21, 19 (1) (a) , 14 and 15[369]. These judgments imply that the basic human rights enshrined in the UDHR under Articles 2, 12 and 5 which correspond to non-discrimination, right to privacy and freedom from torture respectively, must extent with regards to sexual orientation also.

Ultimately, human rights are universal, inherent and inalienable, and are applicable to every human being regardless of his social status. They are essential for living a life with dignity. Yet, one cannot deny the antithesis that human rights are not static, but dynamic. They undergo an endless process of evolution and adaptation to catch up with societal changes, technological advancements and changing notion of justice, dignity and life. Article 21 being the most important fundamental right in our constitution, must accept these changes and acknowledge them. The judiciary plays the role of a torchbearer in promoting these emerging human rights and other international human rights on to the mainstream society by interpreting the constitution to incorporate them as fundamental rights. In this regard, judiciary is more approachable to common man when compared to legislature, and the above discussed case laws are testimonies to this fact.

[364] *Constitution (Eighty-sixth Amendment) Act, 2002* (India).
[365] *The Constitution of India* art 45 (as amended by the Constitution (Eighty-sixth Amendment) Act, 2002).
[366] *The Constitution of India* art 51A(k).
[367] *National Legal Services Authority v Union of India* (2014) 5 SCC 438.
[368] *Navtej Singh Johar v Union of India* (2018) 10 SCC 1.
[369] *The Constitution of India* arts 14, 15, 19(1)(a), and 21.