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## ARTICLE 21 AND THE EVERYDAY INDIAN: RIGHTS WE DON'T REALISE WE USE

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### Abstract

Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty, is among the most expansively interpreted provisions in constitutional history. Yet, despite its vast scope, the majority of Indian citizens remain unaware of the extent to which it governs their daily existence. This article seeks to bridge that gap by tracing the judicial evolution of Article 21 from its narrow interpretation in *A.K. Gopalan v. State of Madras* (1950) to its transformative expansion in *Maneka Gandhi v. Union of India* (1978) and mapping its application across everyday life situations including travel, environmental rights, healthcare, privacy, and livelihood. Through an analysis of landmark Supreme Court and High Court judgments, this article demonstrates that Article 21 functions as a living, breathing guarantee that silently protects citizens from the moment they wake until they sleep. The article concludes by equipping ordinary citizens with practical remedies for common violations, arguing that an informed citizenry is the most effective guardian of constitutional rights.

**Keywords:** Article 21, Indian constitution, Evolution of article 21, M.C. Mehta, Everyday rights, Judicial Interpretation, Golden triangle.

### Introduction

**Article 21 – Protection of Life and Personal Liberty**, No person shall be deprived of his life or personal liberty except according to procedure established by law.<sup>112</sup>

Article 21 of The Indian Constitution has a very wide scope, it can also be referred to as a canopy of rights. From the moment we wake up to the moment we sleep, Article 21 silently shapes our everyday existence. The right to clean air when we breathe, the right to safe drinking water, the right to fair wages for our work, the right to live with dignity, and even the right to livelihood – all flow from the expansive interpretation of Article 21. It is not merely a constitutional provision; it is the backbone of our daily life, protecting rights we use without even realising.

The makers of our constitution were inspired from The 5th and 14th Amendments of The U.S. Constitution and gave us Article 21. The Fifth Amendment to the U.S. Constitution provides, among other protections, that no person shall "be deprived of life, liberty, or property, without due process of law." It is from this phrase that the drafters of Article 21 drew their primary inspiration [2]<sup>113</sup> In many Hollywood movies we can see in court proceedings that the accused on the stand takes the fifth, taking the fifth means they are invoking their right against self incrimination, though the right against self incrimination in India is under article 20(3). From the Fifth Amendment "no person shall be deprived of life, liberty" has been borrowed and that makes The article 21, the members of the drafting committee had different views on the term "due process of law" Dr.B.R.Ambedkar was

<sup>112</sup> The Constitution of India art. 21. - India Code.

<sup>113</sup> U.S. Const. amend. V.

positive that the term due process established by law is right for Indian context but Mr.B.N.Rao, The Constitutional Advisor, believed that judicial review under the doctrine of Due process would hinder the future beneficial legislations for the society. Mr.B.N.Rao during his US visit met U.S. Supreme Court Judge Justice Felix Frankfurter, who told Mr Rao that the power of judicial review would be burdensome on the judiciary and is undemocratic. Rao protested and was successful in replacing the “due process of law” with “procedure established by law”.

### **Evolution of Article 21**

When enacted, the scope of article 21 of the Constitution of India was very narrow and confined to protection of life and unjust arrest by the state, which can be seen as a direct response to the oppression by the British authorities and it was to ensure that the “state” could not take away a person's life or freedom without a just, legal process.

In the landmark **A.K. Gopalan v. State of Madras, AIR 1950 SC 27[3]<sup>114</sup>**, the Supreme Court of India held that the “procedure established by law” did not require the same strict “due process” standard as in the United States, but only that the procedure be established by the state's legislature. Interpreting the article 21 with a very narrow scope and dictionary meaning of the terminology in the article. The background of the case is as follows

- A.K.Gopalan was a communist leader who was detained by The Preventive Detention Act, 1950, after being detained he challenged the constitutionality of the act by filing a case in Hon'ble Supreme Court of India under article 32.
- He argued that the act violated his fundamental rights under article 14, 19 and 21.
- The Court upheld his detention as constitutional and the court stated that there was no connection between the

fundamental rights under articles 14, 19 and 21 with one another and therefore cannot be interpreted together.

Later in **Maneka Gandhi v. Union of India, (1978) 1 SCC 248.[4]<sup>115</sup>**, the court overruled the past judgement given in **A.K.Gopalan v. State of Madras**, expanding the scope of article 21.

In **Maneka Gandhi v. Union of India, (1978) 1 SCC 248**, the events in the legal dispute were as follows

- In 1977, Maneka Gandhi's passport was impounded by the Ministry of External Affairs stating the action was “in the interest of the general public” but refused to provide any specific reason.
- Aggrieved, Gandhi filed a writ petition under article 32 in the Supreme Court of India, arguing the impounding of her passport and the refusal to provide reasons violated her fundamental rights.
- She contended the authority's action was arbitrary and a violation of her rights to equality (Article 14), freedom of speech and expression (Article 19(1)(a)), and the right to practice any profession (Article 19(1)(g)). She also claimed it infringed on her right to personal liberty (Article 21).
- The Apex court expanding the scope of article 21, overruled the judgement in A.K.Gopalan case and established that “procedure established by law” must be fair, just, and reasonable, not just legally established.
- The Supreme Court held that Articles 14 (Equality), 19 (Freedoms), and 21 (Personal Liberty) are interlinked and must be read together, requiring any law affecting personal liberty to meet the standards of all three, the court also held that articles 14,19 and 21 form a ‘Golden Triangle’ of rights. This expansion is precisely why Article 21 now touches nearly every aspect of daily life.

<sup>114</sup> A.K. Gopalan v. State of Madras, AIR 1950 SC 27.

<sup>115</sup> Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

It can be seen how the scope of right to life and personal liberty is becoming broader than the exact dictionary terminology. Life in article 21 is not confined just to mere existence, but encompasses a life with dignity, a life worth living and not mere animal existence.

The beyond textbook definition given time to time by The Supreme Court's interpretations have broadened the scope of article 21, most of the general public is unaware of their rights under article 21.

### Everyday Life Areas Where Article 21 Operates.

#### 1. Rights under Article 21 when we travel.

**Pothole Free Roads– The Bombay High Court in PIL no 71 of 2013**, held that the right to safe, well maintained and motorable roads is a fundamental right under article 21. "In view of the deplorable condition of the roads, with potholes continuing to cause deaths and injuries to persons". The Bombay High Court ordered mandatory compensation of ₹6 lakh for deaths and ₹50,000 to ₹2.5 lakh for injuries, to be paid by the responsible civic authorities. The court mandated that all potholes be attended to within 48 hours of being reported and imposed personal liability and strict disciplinary action (including blacklisting) on erring officials and contractors.<sup>116</sup>

**Passport–** As seen above in the Maneka Gandhi case, A citizen's passport cannot be seized by the authority for an indefinite period without stating valid reasons for doing so.

The right to go abroad is also encompassed under article 21.

**Eve-teasing –** Eve-teasing amounts to violation of various fundamental rights, which include articles 14,15 and 21. Eve-teasing specifically violates the right to dignity guaranteed under

article 21. (**Deputy Inspector General of Police v. S. Samuthiram, AIR 2013 SC 14**)<sup>117</sup>.

#### 2. Right to a Clean Environment.

In **M.C. Mehta v. Union of India, AIR 1987 SC 1086**<sup>118</sup>, famously known as Oleum gas leak case, the court held that "public health and ecology have priority over unemployment and loss of revenue"

In **Subash Kumar v. State of Bihar, AIR 1991 SC 420**<sup>119</sup>, the court held that "Right to pollution free air falls within article 21".

In **Dr. B.L. Wadehra v. Union of India, AIR 1996 SC 2969**<sup>120</sup>, Right to pollution free water was included in article 21.

It can be concluded that Right to life under article 21 includes the right to a pollution free environment, not just industrial pollution but even smoking in public places is prohibited under article 21 as held in **Murli S. Deora v. Union of India, AIR 2002 SC 40**<sup>121</sup>, where the court stated "In any case, there is no reason to compel non-smokers to be helpless victims of air pollution." Article 21 is literally protecting the air we breathe from pollution, the water we drink from contamination and even garbage mismanagement is a violation of rights under article 21.

#### 3. When we access Hospitals or Medicine

Right to health is included in article 21 as held in **State of Punjab v. Mohinder Singh Chawla, AIR 1997 SC 1225**.<sup>[5]</sup><sup>122</sup>

The denial or undue delay of essential medical treatment by a government hospital is viewed as an infringement of the constitutional right to life. In simple language it means Article 21 guarantees timely treatment to be given to patients in need by government hospitals. Right to Medical Treatment is available to

<sup>116</sup> Public Interest Litigation No. 71 of 2013 (Bombay H.C. 2025) (India) available at <https://mahadma.maharashtra.gov.in/wp-content/uploads/2025/11/PIL-71-of-2013.pdf>

<sup>117</sup> Deputy Inspector General of Police v. S. Samuthiram, AIR 2013 SC 14 (India).

<sup>118</sup> M.C. Mehta v. Union of India, AIR 1987 SC 1086(India).

<sup>119</sup> Subash Kumar v. State of Bihar, AIR 1991 SC 420(India).

<sup>120</sup> Dr. B.L. Wadehra v. Union of India, AIR 1996 SC 2969(India).

<sup>121</sup> Murli S. Deora v. Union of India, AIR 2002 SC 40(India).

<sup>122</sup> State of Punjab v. Mohinder Singh Chawla, AIR 1997 SC 1225 (India).

prisoners as well, but they do not have the right to dictate the choice of hospital where they want to be treated.

#### 4. Rights in Private and Domestic Life.

**Right to Privacy**– In the famous *Justice K.S. Puttaswamy (Retd.) v. Union of India (2017) 10 SCC 1*<sup>123</sup>, a nine judges bench unanimously recognised privacy as a fundamental right, the ruling recognised multiple facets of privacy i.e., (i) Physical privacy– the right to “be left alone”. (ii) Informational privacy– the right to control one’s personal data. And (iii) Choice privacy– The right to make fundamental personal choices without undue interference.

**Right to dignity**– Article 21 protects against violence, exploitation, and abuse, ensuring a person’s physical and mental well-being is not compromised in their own home. Which in simple terms mean, no one can trespass, or forcefully enter anyone else’s house.

**Right to sleep peacefully**– In the landmark judgement of *Ramlila Maidan Incident v. Home Secretary, Union of India & Ors. case in 2012 5 SCC 1*<sup>124</sup>, The court held that “the police action of forcibly evacuating a sleeping crowd at midnight, without adequate notice, was an unconstitutional intrusion into their basic human right to sleep.”

The judgment emphasized that disrupting sleep causes physical and mental disorientation, energy imbalance, and cardiovascular problems, making it a form of torture if done without justification.

**Right to electricity**–In *Francis Coralie Mullin vs The Administrator, Union territory of Delhi, 1981 AIR 746* the Supreme Court held that “The magnitude

and content of the components of this right (right to live with dignity) would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self.” In modern days it is tough to survive without electricity, and denial of electric supply could amount to violation of the right to live and personal liberty.<sup>125</sup>

#### 5. Rights under Article 21 when you go to work

Although Article 21 does not explicitly guarantee employment to every individual, the National Rural Employment Guarantee Act, 2005 elevates the ‘right to livelihood’ beyond a simple legal entitlement.

Denying an employee of his due payment is a violation of his fundamental rights as Right to payment of wages is considered a fundamental right under article 21 as it is intrinsically related to right to life and right to earn a livelihood. Right to livelihood is the right on which Gig workers, contract workers, daily wage labours, etc depend heavily on. In *Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180*<sup>126</sup> The Supreme Court held that the right to livelihood is an integral component of the right to life under Article 21, as no person can live without the means to sustain themselves.

Beyond the rights discussed above, Article 21 continues to encompass an ever expanding range of protections. Many rights are still evolving through judicial interpretation, reinforcing its position as the Constitution’s most dynamic and life-affirming guarantee.

Despite its wide interpretation, numerous violations of Article 21 occur around us every day – polluted air, unsafe workplaces, delays in medical care, unlawful detentions, denial of

<sup>123</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India (2017), 10 SCC 1 (India).*

<sup>124</sup> *Ramlila Maidan Incident v. Home Secretary, Union of India & Ors. 2012 5 SCC 1 (India).*

<sup>125</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi, AIR 1981 SC 746 (India).*

<sup>126</sup> *Olga Tellis v. Bombay Municipal Corporation, AIR 1986 SC 180 (India).*

pensions or welfare, and lack of access to clean drinking water. Most of these violations remain unnoticed or unchallenged, not because they are insignificant, but because citizens are often unaware that these everyday hardships amount to breaches of their fundamental right to life and dignity. This silent erosion of Article 21 calls for greater awareness and proactive engagement from ordinary citizens.

Here's what the ordinary public can do when they face these common violations of rights.

### Remedies Available to Citizens for Violation of Rights under Article 21

#### 1. Air Pollution/ Contaminated water-

- File a complaint with the Pollution Control Board (online/offline)
- Use RTI to ask for water/air quality reports
- Approach National Green Tribunal.
- File an PIL with the Supreme Court under article 32 or with the High court under article 226.

#### 2. Delay or denial of medical treatment in government hospitals-

- Request a written reason.
- Seek immediate care elsewhere, as the primary goal is to preserve life in a medical emergency.
- You can also file a complaint with the hospital administration/State medical council/FIR(police complaint)/Complaint with the Human Rights Commission/Consumer complaint.

#### 3. Unlawful detention or police harassment-

- Visit the nearest Legal Aid Center and seek help.

- File a complaint with the SP or Commissioner of Police.
- Approach the High Court for habeas corpus(with lawyer/legal aid).

#### 4. Denial of basic municipal services (sanitation, garbage collection, water supply)-

- First file a complaint on the Municipal grievance portal.
- Approach ward officer or local corporator.
- Use RTI to ask for reasons for delay.
- File a complaint before the Lokayukta if misconduct is suspected.

#### Conclusion-

Article 21 is far more than a constitutional guarantee, it is the quiet companion of every Indian citizen, shaping the dignity, safety, and quality of our everyday life. From the air we breathe and the water we drink to the medical care we receive and the livelihood we depend upon, its scope continues to expand through progressive judicial interpretation. Yet, despite this vast protection, countless violations of Article 21 occur around us every day, often silently and without challenge. Many citizens fail to recognise these violations as breaches of their fundamental rights, and many feel the system does not support the weak, allowing injustice to become normalised.

Understanding Article 21 is the first step towards safeguarding it. When ordinary people become aware of their rights, notice when they are infringed, and take simple, practical steps, they transform from passive observers to active guardians of the Constitution. The true strength of Article 21 lies not only in the

wisdom of the courts but also in vigilance of the people it protects. Empowered citizens ensure that the right to life remains not just a constitutional promise, but a lived reality for all.

**“The Government alone will never be able to do it (make human rights meaningful). It is only the people themselves who must utilize law for the purpose of bringing justice to the doorsteps of the large masses of people of the country”**

**Former Chief Justice  
P.N.Bhagwati.<sup>127</sup>**

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