
PERSONAL LIBERTY AS A HUMAN RIGHT IN THE 21ST CENTURY: AN ANALYSIS

Prashant Kumar Yadav, Brijesh Sharma & Mudra Singh (Assistant Professor), Amity Law School, Amity University, Uttar Pradesh Lucknow campus

INTRODUCTION

After India gained its independence, one of the first things it did was create and ratify its constitution, which among other things ensured that its citizens have fundamental rights. The most basic of all the "Fundamental Rights" is the right to life and personal freedom, which is the focus of this book. "No person shall be deprived of his life or personal liberty except in accordance with the procedure established by law," states Article 21.

An individual's rights were initially given a limited interpretation by the Indian Supreme Court. But as democracy developed and became more entrenched, constitutional dynamism emerged. The idea of "just," "fair," and "reasonable" was established by the Supreme Court with greater vigour and passion, and it has since evolved into a fundamental tenet of government operation under Article 21 of the constitution. In the system of fundamental rights, Article 21 holds the position of brooding omnipresence and has essentially evolved into a haven for human values.

The most valuable right in a civilised society, the right to life, goes beyond just having a physical existence. It involves the right to dignity and all basic needs. The Supreme Court has recently adopted a fairly broad interpretation of the right to personal liberty. It contains practically all of the rights required for a comfortable life, such as the right to privacy, the freedom to go abroad, the right to one's reputation, and the right against economic exploitation. Our cultural history includes the perennial bloom of human dignity. So those who are imprisoned as well as those who are free have access to this privilege. The right to a prompt trial, free legal representation, protection from torture and other cruel or inhumane treatment while in custody, and more.

In the *Maneka Gandhi* case, the Supreme Court gained what the constitution's authors refused to provide, removing the last remaining nail in the restrictive reading of *Gopalan*. The Supreme Court's "Due Process" child, who was born as a result of its ruling in the *Maneka Gandhi* case, is developing healthily and getting close to adulthood. The term "Personal Liberty" today encompasses every imaginable right, even some that the framers of the constitution did not consider. International travel rights, privacy rights, marital rights, surrogate mother rights, social and economic rights, the right against poverty, etc. are now all covered by the protection of Art. 21. The right to personal liberty is increasingly recognised within the confines of the prison. In fact, the court has joined forces with policymakers to develop and put into practise fresh ideas to strengthen this right. The right to life and personal liberty now have additional dimensions because to the Supreme Court's activist engagement in public interest litigation and liberal interpretations. This fresh perspective that the judiciary has given to "personal liberty" provides adequate support for the study effort and paints a new picture of liberty as a concept in the twenty-first century.

¹ *Maneka Gandhi v. Union of India*, 1978 AIR 597

OBJECTIVES OF THE STUDY

The main objectives of the study are:

- To point forth certain particular facets of personal liberty.
- To quickly explain the idea of personal liberty as it is reflected in different national constitutions.
- To define the idea of personal liberty in India before, during, and after the 21st century.
- To advance theories on the elements that contribute to the flexible understanding of personal liberty.
- To talk on how the idea of personal liberty should be interpreted and used, as well as any resulting drawbacks.
- To examine the extent of personal freedom through judicial and legislative interpretation.
- To outline the actions that the legislative, executive, and judicial branches of government should do to protect personal freedom in India in order to create a welfare state.

Hypothesis of the Study:

For the purpose of study of personal liberty, the following hypothesis may be drawn:

The individual's personal freedom must be respected and defended because in such a setting, where he has access to all opportunities for personality development, he is to live with the dignity that comes with being a human being, which is unquestionably more and better than that of an animal existence.

- The ultimate goal of exercising personal freedom is for all members of a given civil society to recognise the existence of a welfare state because the idea of a welfare state assumes that its residents will have fully developed personalities on all fronts.

THE CONCEPT OF LIBERTY

Man has always been drawn to the notion of liberty, and both great acts of bravery and heinous crimes have been committed in its honour. The concept of liberty is one of the few values that may still compel mankind today. The fundamental requirement of human life is liberty². The greatest human possession is regarded to be freedom. Even among animals, there is a desire to live freely, and a caged bird or animal will try to break the bars holding it prisoner in order to live in a setting that it prefers. In the long history of the human species, the desire to be free from artificially imposed restraints has been the most prevalent trait among people³. The desire for independence inside is a typical feature of human civilization.

Man likes that to which he has become used, and respect for every person's life, liberty, and property is no longer just a guideline for government decision-making or a state policy; it has genuinely evolved into a tenet of the living law.⁴ One of the most fundamental needs of the modern man is liberty. It is supposed to be the delicate fruit of an advanced society.⁵ The main tenets of civil liberty are freedom of life and personal choice. Because no other civic liberty is conceivable without the freedom of life and the freedom of the individual, this liberty supports all other rights. The most important and fundamental possessions of a human are their life and their freedom.

Liberty and Individualism:

John Stuart Mill believed that "all restraint, qua restraint, is an evil"⁶. In a similar vein, Harold J. Laaski claims that liberty is fundamentally a lack of restraint⁷. Locke defined liberty as the ability for every person to choose or refrain from taking a certain action in accordance with their determination or thoughts. "The plain and obvious meaning of the words, 'Freedom' and 'Liberty' in common speech is power, opportunity or advantage that any one has to do as he pleases or, in other words, his being free from hindrance or impediment in the way of doing or conducting in any respect as he wills," said Jonathan Edwards. And whatever name we give it, everything that prevents someone from doing as they like or forces them to act differently is in opposition to liberty.

People who believe that a person's freedom is determined by his or her capacity to act as they wish view the coercive regulation of behaviour by the government as limitations on that person's liberty. Those who believe that a person's capacity for free choice determines their level of freedom do not consider the duties placed on them by the law to be a violation of their rights⁹. Lord Justice Denning defined liberty as the right of every law-abiding citizen to do as they want, speak as they please, and go where they choose on their own legal occasions without interference from anybody else.

Without movement, life would be meaningless, and without the application of human capacities, it would not develop beyond the level of animals. A fundamental demand is individual liberty. Individuals are shielded from the oppression of the majority. In order to ensure that the best answer comes from the free exchange of ideas, it establishes a minimum level of intellectual, philosophical, spiritual, and economic variety in a society. Every culture that wants to advance, whether economically, intellectually, spiritually, or materially, must prioritise individual liberty¹⁰.

² E. Asirvatham, Political Theory, p-168, Tenth Ed

³ Sharma, B.M. and Chaudhury, C.P. "Expanding Dimensions of Freedom, p.1

⁴ Clarene Morris, "The Great Legal Philosophers", p.449

⁵ John, E.E.D. Action, "Essays on Freedom and Powers", p.53

⁶ S.L. Benn and R.S. Peters, "Social Principles and the Democratic States", p.220

⁷ Harold, J. Laski, "Liberty in the Modern State" (1954), p.48

⁸ Locke, "An Essay Concerning Human Understanding", pp.7-8.

⁹ "Essays on Freedom and Power", p.55.

Liberty as an Idea:

The freedom of Indian citizens' actions is what is meant by the concept of liberty. One of the earliest ideas to be upheld by national courts is this one. No free man may be kidnapped or imprisoned other than in accordance with the law of the nation, according to the Magna Carta. In the Fifth and Fourteenth Amendments to the US Constitution, the term "liberty" is given an extremely broad definition. Contrarily, Article 21 of the Indian Constitution characterises "liberty" as "personal," indicating that Indian freedoms are more limited than American ones. However, it has evolved through time as a result of several rulings rendered by the Supreme Court of India¹¹. The Latin word "Liber," which meaning "absence of restraint," is where the term "liberty" originates. It has been defined variously by different thinkers. Among the definitions, there are 12: According to Gettell, "Liberty is the positive power of doing or enjoying those things which are worthy of enjoyment and work."

In the words of C. D. Burns, "Liberty is to grow to one's natural height and to develop one's ability."

According to Laski, "Liberty is the larger maintenance of that atmosphere in which men have the opportunity to be at their best selves."

The state's laws and societal conventions impose restrictions on freedom. It is only the ability to choose, consider, and deal with oneself, independence from restriction or control. It is the capability people require to exert self-control. When everything is considered, it should be clear that opportunity exists not simply in the absence of obstacles but rather inside the ability to identify opportunities. "Rights have an effect on liberty. It is the most outrageous occasion to take necessary action while adhering to all event restrictions and laws appropriate for a reputable society¹³.

Kinds of Liberty:

A person may have specific activities they wish to accomplish, and if they can do them without interference, that gives them ample freedom. Speaking and expressing oneself freely means that everyone is allowed to hold the beliefs they find most important.

1. Negative Liberty: The lack of an external impediment is referred to as negative liberty. Obstacles in social interactions can take the shape of a threat. The action that the person wants to take is punished.

2. Positive Liberty: In contemporary civilization, positive liberty refers to the lack of restrictions on the presence of the social circumstances that constitute the essential assurances of personal satisfaction. Absence of restrictions indicates the ability to increase a person's ability to choose his own course of action without externally imposed limitations.

3. Moral Liberty: Internal freedom that is constrained by reason and conscience is referred to as moral liberty in the personal sense. It emerges at the point of integration where the person's many appetites have been brought together and centred by a contemplative will. A person is free to behave in accordance with his or her inner conscience.

4. Legal Liberty: In a democracy, every person is entitled to certain freedoms or liberties, which the state has a responsibility to uphold and safeguard. Every person's freedom must be promoted by the government, and both positive and negative freedom must be included in this task.

5. Civil Liberty: Its principal sources are the courts and legal disputes, as well as the conscience and vigilance of a disciplined and intelligent people. A man acquires civil liberty by virtue of being a member of society. It could encompass freedom of speech, freedom of religion, etc.

6. Political Liberty: Only nations that embrace and uphold democracy can boast of having political liberty. There are some rights that are defended as essential to the operation of the government rather than as a safeguard for the person against the state. It grants the freedom to actively take part in state administration. It might be the right to vote, the right to run for office, etc.

7. Economic Liberty: The main requirements for a freeman are financial security and mental freedom. It means protection from challenges like unemployment, poverty, and other such problems. It encompasses the right to work and the right to get fair compensation.

8. Natural Liberty: A man's natural right to be free from restraints since he is born free.

9. Religious Freedom: India, a secular state, allows its inhabitants the freedom to practise whatever religion they want without government interference.

10. Individual Liberty: This refers to the freedom to do whatever without interfering with or affecting others.

¹⁰ Kharak Singh v State of U.P AIR 1963 SC 129

¹¹ Liberty: Definition, Features, Types and Essential Safeguards of Liberty, available at: [Liberty: Definition, Features, Types and Essential Safeguards of Liberty \(yourarticlerepository.com\)](http://www.yourarticlerepository.com)

¹² Concept of liberty, available at: [Liberty \(davuniversity.org\)](http://www.davuniversity.org)

¹³ Liberty - Slide Share, Available at: www.slideshare.net

CONSTITUTION AND LIBERTY

'Protection of Life and Personal Liberty' is the subject of Article 2114, which is considered to be the most significant. No one may be deprived of their life or personal freedom unless doing so follows the legal process, it states. All persons, including those who are not citizens, are entitled to these rights.

Additionally, everyone has the right to liberty and personal security, according to Article 5 of the Human Rights Act of 1998. Except under rare circumstances and in compliance with a legal process, no one's freedom may be taken away. It safeguards people's freedom from arbitrary detention. The right to liberty and security is protected.

The repository for the other important rights protected by the Indian Constitution is Article 21. The judiciary has given Article 21 a broad interpretation and multi-layered meanings.

- a) The right to a clean environment. Article 21's "Right to a Clean Environment" provides reason for the need to live in a respectable environment that is free of pollution and has a respectable sanitation system.
- b) The right to legal representation - A court case may have an unimaginably severe impact on the civil freedoms of persons who are poor in order to resolve their comparatively minor legal disputes. The Supreme Court has given lesser people the freedom to join the fight for a free, honest army in light of this, and it is now the ceremonial's responsibility to help those in need and have their claims decided without having to pay any fees or expenditures on behalf of the government. As it should be, the right to free legal aid has been declared to be a fundamental one, and it is the import tax and duty of any cheque risk to inform the accused of his right to free legal assistance.
- c) The right to privacy was inferred by the Supreme Court from Directive Principles of State Policy, Article 21 and numerous other constitutional provisions. Although there is no one law that grants a universal, or "horizontal," right to privacy, many laws include provisions that either directly or tacitly uphold this right.
- d) Right of prisoners and right against illegal imprisonment – The Article 21 is applicable to all Indian citizens, without exception. It acknowledges the constitutional rights of those who have been arrested so long as a fair and effective system is used to hold them so that no one is held against their will.
- e) In *Satwant Singh Sawhney v. Assistant Passport Officer*¹⁷ New Delhi, the Supreme Court construed the term "personal liberty" to encompass the freedom to go abroad as defined by Article 21. In the case of *Maneka Gandhi v. Union of India*¹⁸, the constitutionality of Section 10(3)(c) of the Passport Act of 1967, which allowed the government to seize a person's passport when it was in the public interest, was contested.
- f) Right to disclosure of terrible sickness - Every person has been recognised as having the ability to exercise all of their constitutional rights, including the right to know about any terrible and fatal diseases.

g) Right Against Handcuffing - The use of handcuffs has been criticised for being at first seem unjust, unreasonable, excessively severe, and arbitrary. It was determined that it wasn't justifiable and broke Article 21. In *Prem Shankar v. Delhi Administration*¹⁹, the Supreme Court found that the Rules mandating that every under-trial defendant charged with a crime punishable by more than three years in jail be shackled were unconstitutional. The Court ruled that handcuffing should only be used in situations when there is a "clear and present danger" that the defendant will elude police control and flee throughout the course of the trial.

The prohibition against solitary confinement – It has been determined that a prisoner's fundamental rights are not entirely taken away from him and that his conviction does not render him a non-person whose rights are subject to the whims of the prison administration. As a result, compliance with procedural protections is a requirement for any severe punishment applied inside the prison system. The Delhi session court had condemned the petitioner in *Sunil Batra v. Delhi Administration*²⁰ to death, and his appeal to the high court was still pending. He was kept in Tihar Jail while the appeal was pending. He stated that after being found guilty by the session court, he was kept in solitary detention.

¹⁴ The Constitution of India, 1950

¹⁵ *Vellore Citizens' Welfare Forum v. Union of India*: 1996 (5) SCC 647

¹⁶ *Khatri v. State of Bihar*: 1981 SCC (1) 627

¹⁷ 1967 SCR (2) 525

¹⁸ 1978 SCR (2) 621

Reasonable Restrictions:

- "Article 21 expressly requires that there be a legislation in place as the primary condition for allowing a breach of protection. No one's life or individual freedom may be taken away from them other than in accordance with the legal process. The existence of the law is a necessary condition.
- From the perspective of a real state, ensures that the type and content of the legislation imposing the restriction remain within the range of decency mandated by Article 14, which is an assurance against subjective state activity.

Since it ensures that the type and nature of the violation of the right is not out of balance to the purpose of the law, proportionality is a crucial aspect of the assurance against arbitrary governmental activity. According to Article 19(2), appropriate constraints may be placed on the freedom to speak out without restraint where a genuine concern for the security of the State is present. The phrase "security" is a crucial one in any circumstance. The phrase "security of the state" only alludes to legitimate and irritating forms of public solicitation, such as rebellion, waging war against the State, and revolt, and not to frequent breaches of public solicitation and public security, such as unlawful social gatherings, revolt, and affray.

Evolution of Laws relating to it overtime:

The broad consensus was that one may only use one's basic rights against the State and not against any non-State organisations or people. In *Vidya Verma v. Shiv Narain Verma*²², the court ruled that if a private individual violates a person's right to personal liberty, that person must seek redress through ordinary law rather than under Article 21. However, there are cases where this privilege has been used against private individuals as well. It is maintained that Article 21 should be interpreted as broadly as possible and not just apply to State activity.

The Apex Court noted in the case of *A. D. M. Jabalpur v. Shivkant Shukla*²³, also known as the Habeas Corpus case, that Article 21 was the only repository of the right to life and personal liberty and that if it was suspended by a presidential order under Article 359, the detainee would not have the right to file a writ petition to challenge the legality of his detention. As a result, the inhabitants' valued right to personal liberty was violated. As a result, Article 359 was modified by the Constitutional Amendment Act of 1978 so that when an emergency proclamation is in effect, the basic right provided by Article 21 will not be suspended.

¹⁹ AIR 1980 SC 1535

²⁰ AIR 1978 SC 1675

²¹ What are the 'reasonable restrictions' that can be put on the fundamental Right to Privacy? Available at: [Scroll.in](http://scroll.in/latest-news/in-depth-news/india-news/politics-news/indian-cinema/indian-sports/culture/video-news) - Latest News, In depth news, India news, Politics news, Indian Cinema, Indian sports, Culture, Video News

²² AIR 1956 SC 108

Liberty and Democracy:

The goal of government is to increase everyone's natural right to exist and to work without harming themselves or others, not to dominate or constrain by fear or to demand compliance, but rather to liberate everyone from fear so that they may live as securely as possible. The truth is that every person in the nation should be able to enjoy their own freedom. The democratic spirit places a high value on the individual in a democracy. Everyone must always be given the freedom to experiment with their own lives and find their own paths to salvation. Every guy aspires to have his own thoughts, goals, and needs fulfilled. The primary goal of democratic administration is to protect liberty, which should not be restricted until it becomes antisocial or jeopardises national security. In actuality, the freedom to personal liberty is the greatest gift that democracy has given to humanity. If someone's or a group of people's freedom is compromised, the majority cannot stay unaffected. Every time there is an intrusion into the citadel of freedom, its basic basis is compromised. As more and more intrusions like this are accepted, the entire structure weakens. Eventually, fascism and tyranny take its place, and democracy is left in ruins.

²³ AIR 1976 SC 1207

EVOLUTION OF LIBERTY IN INDIA (PRE 21ST CENTURY)

Without movement, life would be meaningless, and without the application of human powers, it would not advance beyond the level of animals. Because the right to liberty and the freedom of movement are predicated on the idea that each person makes a contribution to society's well-being, slavery, in whatever form, is the antithesis of liberty.

A fundamental demand is individual liberty. Individuals are shielded from the oppression of the majority. It establishes a fundamental level of intellectual, philosophical, spiritual, and financial diversity in a society to ensure that the best answer arises through the unrestricted exchange of ideas. Every culture that wants to advance, whether economically, intellectually, spiritually, or physically, must value individual liberty.

The first-ever attempts to draw the line of need to identify liberty as a crucial component of fundamental rights were made in leading judgements relating to the evolution of personal liberty.

The major cases are:

1. A.K. Gopalan v. State of Madras²⁴: The Supreme Court had a liberal interpretation of what "personal liberty" meant. The Supreme Court held that the term "personal liberty" did not cover everything that it implied. The court decided that "personal liberty" solely pertained to physical freedom, such as freedom from arrest and detention, freedom from false imprisonment, and freedom from wrongful confinement.
- 2.
3. In the Maneka Gandhi case, the Supreme Court expanded the notion of personal liberty to give it the broadest possible application. According to the Court, the phrase "personal liberty" in Article 21 has the broadest meaning and embraces a variety of rights that contribute to a man's personal liberty, some of which have been raised to the status of distinctive fundamental rights and are further protected under Article 19.

Kartar Singh v. State of Punjab²⁶: Justice K. Ramaswamy stated that the right to life with human dignity is a fundamental right of every citizen for the pursuit of happiness and excellence when discussing the TADA Act in relation to the scope of life and personal liberty under Article 21. For the human personality to fully flourish, personal liberty is a must.

²⁴ AIR 1950 SC 27

²⁵ AIR 597

²⁶ 1996 SCC (7) 300

Personal Liberty in International Context

Whether covered by domestic law or international law, the rights to personal liberty, security, and freedom from arbitrary arrest and detention fall under the umbrella of human rights. According to the right to personal liberty, no one may be arrested or detained unless it is authorised by law and provided that neither the arrest nor the imprisonment is capricious. All types of confinement that rob persons of their liberty fall under the scope of this right. In order to fulfil a person's right to security, the nation must take reasonable precautions to ensure their physical safety. In order to fulfil a person's right to security, the nation must take reasonable precautions to ensure their physical safety.

In accordance with article 9 of the International Covenant on Civil and Political Rights (ICCPR), everyone has the right to personal safety and to be free from arbitrary imprisonment. Other rights are also provided for those who are detained or imprisoned under Article 9.

The International Covenant on Civil and Political Rights' Article 9 states:

- The right to liberty and personal security belongs to everyone. No person shall be arbitrarily detained or arrested. Nobody's freedom may be taken away from them unless certain conditions are met and legal procedures are followed.
- Anyone who is arrested must be quickly notified of any charges against him as well as the circumstances surrounding his arrest.
- Anyone detained or arrested on a criminal charge must be presented right away before a judge or other official with legal authority to exercise judicial power. They also have a right to a fair trial or release.
- Anyone who is deprived of his liberty by arrest or detention shall have the right to bring proceedings before a court, in order that that court may quickly decide on the legality of his detention and order his release.
- Anyone who has been the target of an unauthorised arrest or imprisonment is entitled to compensation that can be enforced.

The freedom from arbitrary imprisonment or arrest and the right to personal safety should:

- When drafting laws, take into account a programme or a policy: grants the right to arrest; provides for special powers of detention for specific purposes, such as national security; permits the granting of bail; permits a public authority to cordon off an area and control movement within it; and authorises the detention of a person for reasons related to mental health or contagious disease.
- helps a foreign nation bolster its detention capacity by offering aid. According to the right to personal liberty, no one may be detained or arrested unless specifically authorised by law, and only then if both the legislation itself and how it is applied are not arbitrary. A detention or arrest may be legal under local law, yet it nevertheless may be arbitrary, according to the UN Human Rights Committee. According to the Committee, "arbitrariness" should be understood widely to encompass features of inappropriateness, unfairness, and lack of predictability rather than being synonymous with "against the law."
- The conditions and procedures for arrest and detention should be outlined in domestic law.

However, if it is arbitrary, an arrest or detention authorised by domestic law may be in violation of article 9. If an arrest or detention is not always justified and required, it may be arbitrary.

If a dispute falls under domestic law, delays shouldn't last more than a few days. The seriousness of the charge and the severity of the potential punishment will determine whether a pre-trial detention period conforms with article 9.

In accordance with Article 9, you have the right to a speedy criminal trial. This right is to be contrasted with the right to a speedy trial, which applies to the time leading up to a person's trial regardless of whether they are in custody or have been given bail.

The rights outlined in article 9 of the ICCPR are equally available to children and adults. A child's arrest, custody, or incarceration must only be used as a last option and for the shortest amount of time, according to article 37 of the Convention on the Rights of the Child.

According to Article 4 of the ICCPR, governments may take actions that deviate from some duties under the Covenant, such as the right to personal security and the freedom from arbitrary detention, inasmuch as it is clearly necessary given the circumstances. As long as these actions don't violate other international law responsibilities and don't discriminate mainly on the basis of a person's race, colour, sex, language, or religion.

Limitations on the right to liberty are set forth in Article 9. Deprivations are allowed as long as they follow "procedures as are established by law," provided that the legislation itself and how it is applied are not arbitrary.

Numerous laws and regulations are important to the rights to personal security and freedom from arbitrary detention. Laws should, wherever possible, include protections to guarantee that they are not used arbitrarily. Protections may include the ability to contest the validity of the detention and judicial officer oversight.

The right to security of the person and freedom from arbitrary detention may also be relevant to the following: article 10 of the ICCPR's right to humane treatment while in custody; article 12's right to freedom of movement; and article 14's right to a fair trial and certain rights in criminal proceedings.

PERSONAL LIBERTY IN 21ST CENTURY

The way that notions of liberty have changed as a result of legal decisions is amazing. The judiciary has recently expanded the definition of "personal liberty" as stated in Article 21 of the Indian Constitution. The following are some of the most significant rulings that have altered India's legal climate on individual freedom:

Union of India v. Navtej Singh Johar²⁷- The Supreme Court's five-judge panel ruled that Section 377 of the Indian Penal Code, 1860, which made same-sex relationships between consenting adults (homosexuality) illegal, was unconstitutional. Because to this historic decision, LGBT people are now able to have consenting relationships. This is reportedly another significant turning point for Article 21. On the grounds that it contravenes articles 14, 19, and 21 of the Indian Constitution, section 377's constitutionality has been contested. The Court was asked to decide whether the

clause that criminalises private, voluntary actions between people of the same sex violates their right to privacy and dignity under Article 21. The Court ruled that Section 377 infringes on Article 21's "Right to Choice of Sex" and undermines people's basic rights to privacy, autonomy, and human dignity. It expanded the definition of the right to privacy to safeguard sexual privacy.

Union of India v. Justice K.S. Puttuswamy (Retd.)²⁸- On August 23, 2017, the Supreme Court ruled unanimously to recognise the right to privacy as a basic freedom protected by Article 21 of the Indian Constitution. Justice K. S. Puttaswamy, a retired High Court judge, filed a writ case challenging the constitutionality of the Aadhaar Scheme, which the court was currently examining. Union of India v. Common Cause²⁹, "Right to die with dignity" The Supreme Court approved passive euthanasia on March 9, 2020, with a few special conditions and close judicial oversight. In the aforementioned decision, the court allowed a patient's "Living Will" to end medical assistance in the event that the patient enters an irreparable condition of coma. Although active euthanasia, in which a patient's life is actively ended, is not permitted, passive euthanasia, in which a patient's life is not actively preserved, is regarded as a basic right under Article 21. The right to pass away with dignity was deemed a basic right by the court.

Union of India v. Shakti Vahini³⁰: "Right to choose a life partner" The Supreme Court declared the choice of one's life partner to be a basic right under Article 21 on March 27, 2018, and instructed the government to adopt all reasonable preventative measures to stop honour murders and similar crimes. It was decided that it was illegal for Khap Panchayats or any other assembly to try to stop two consenting adults from getting married. A three-judge panel's decision said that the assertion of choice is an integral part of liberty and dignity since there can be no dignity when one's freedom of choice is being restricted. If liberty is not protected, then a person's existence is like to that of the living dead, forced to put up with brutality and torture without voicing an objection and tolerating the imposition of concepts and ideas without having a voice to object. It is legal for two adults to get married when they want to, and anyone who interferes with that legal right is breaking the law.

Union of India v. Joseph Shine³¹- In this historic ruling issued on September 27, 2018, a constitutional bench of the Supreme Court ruled that Section 497 of the Indian Penal Code, 1860 was unconstitutional and should be repealed in order to decriminalise adultery in India. Adultery became a crime under Section 497. The Court was asked to rule on whether Section 497 violated the Indian Constitution's Articles 14, 15, and 21. The court determined that the aforementioned clause is outdated since it views the wife as the husband's subordinate and states that only the husband is permitted to seduce a woman outside of the marriage. The petitioner argued that Article 21's right to privacy ensures each person's sexual autonomy. The aforementioned clause was definitively invalidated by the top court on the grounds that it violated fundamental rights.

Rakesh Kumar Paul v. State of Assam³²- "Right to legal aid"- In this case, the Supreme Court's three-judge panel held that it is the magistrate's duty and obligation to make the accused fully aware of his right to consult with and be represented by an attorney, and that if he lacks the financial means to do so, he shall be given legal aid at the state's expense. The Constitution's Articles 21 and 22 grant the accused certain rights, and these rights must be scrupulously upheld. Any partial performance of the duty would subject the Magistrate to departmental actions. The Constitution's Articles 21 and 22 grant the accused certain rights, and these rights must be scrupulously upheld. Any partial performance of the duty would subject the Magistrate to departmental actions. Being very formalistic and technical is not advisable when discussing personal liberty and Article 21 of the Constitution.

"Right of family against arbitrary interference of state" - Mohd Javed v. Union of India & Anr³³ The High Court of Delhi ruled on May 28, 2019, that a foreigner must be given a reasonable opportunity to submit their case before a competent body unless there are urgent national security

considerations. It is forbidden to violate a foreigner's basic right under Article 21 of the Indian Constitution. Article 21 safeguards every family right against the state's arbitrary and irrational intervention. Young children's right to dwell with their mother and a husband's right to consortium with his wife are both covered under Article 21.

"Right to speedy trial" case: Hussain and Others v. Union of India³⁴ The Indian Constitution's Article 21 guarantees a reasonable, fair, and just procedure, which the Supreme Court reiterated includes a prompt trial. This right is inalienable, regardless of the justification that there are no funds available. Personal liberty cannot be taken away without a prompt trial, which is in accordance with Article 21. While a person in detention for a serious offence may not be freed if the trial is postponed, in such circumstances the trial must be accelerated or bail must be given.

Kamil Siedczynski v. Union of India and Anr. ³⁵- In this instance, a Polish national entered India on a student visa that was most recently extended through August 31, 2020, yet he was sent a Leave India Notice (LIN) dated February 14, 2020. Additionally, prior the issuing of such notice, the petitioner was not given the chance to represent himself. According to the High Court of Calcutta, the current petitioner was expelled from the nation because he did not uphold the ideals of life and liberty guaranteed by Article 21. The Court noted that everyone who is residing on Indian land is subject to Article 21. Article 21 prohibits the removal of a person's rights without their consent.

State of Kerala, City Police Commissioner, and District Police Chief v. N. Prakash³⁶- In a case heard by a two-judge panel of the Kerala High Court, the petitioner was refused a motor permit so that he could leave his home and buy "Meso Persian" cookies for his cats since he was a vegetarian and did not prepare non-vegetarian food at home. He argued that Article 21 of the Indian Constitution guarantees animals a basic right to life. The court noted that while section 11 of the Prevention of Cruelty to Animals, 1960 penalised an animal's owner for failing to give the animal food and shelter, Article 21 can be expanded to include a citizen's right to raise his own animals. According to Article 21, every person has the right to enjoy his or her life and freedom, including the option of keeping a pet.

(Madras High Court) Suo Moto W.P. 7492 OF 2020 The Court learned about the situation via media reports concerning a doctor who passed away with COVID-19 illness. His body was transferred to the Christian Cemetery in Kilpauk, but as the locals were against his burial there, it was instead transported to Velangadu and laid to rest there. The people assaulted the ambulance and the officials removing the body. According to the Court, Article 21 cannot be limited to just animal existence. The right to a proper burial is included in the scope and ambit of Article 21. The right to be buried in a cemetery designated for doctors has been denied to someone who has practised a unique profession as a doctor.

The High Court of Rajasthan heard a special appeal brought by the State of Rajasthan against a judgement made by the learned Single Judge bench of the same Court in the case of State of Rajasthan and Others v. S and Navjeevan Sansthan³⁷. The juvenile respondent (17 years old) filed an application through her mother asking for authorization to end her pregnancy after being the victim of sexual harassment. The learned special court ruled that because the gestation duration exceeded the 20-week threshold, the application could not be maintained. The learned court went on to say that the petitioner was carrying a life that was protected by Article 21 and that this protection could not be used just for the victim. The Court ruled that the learned special judge was mistaken in thinking that the victim's reproductive choice should come before the life of the unborn. According to Article 21, women's freedom of choice regarding reproduction is another aspect of personal liberty. The victim's unintended pregnancy put her mental health in significant danger and caused severe mental harm; as a result, the violation of her fundamental right to life

surpasses that of the unborn child by a wide margin.

In *Registrar v. M. Elango*³⁸, the High Court of Madras ruled that it is against Article 21 to completely deny a suspended employee a sustenance stipend. In this instance, the Primary Agriculture Cooperative Credit Society's secretary was suspended but was not given a subsistence stipend. The relationship between the employer and employee remains in place when it is suspended. To "subsist" is to maintain one's existence while using the fewest possible resources or financial resources. A subsistence allowance is an income that is adequate to cover basic expenses and to maintain oneself during difficult times. Therefore, skipping out on the subsistence allowance is not the best course of action. A fundamental right protected by Article 21 of the constitution is the payment of a subsistence allowance.

The *State of Tripura v. Sri Subhas Bhattacharjee*³⁹- A retired judge submitted a case before the High Court of Tripura, which was heard and decided upon. The appeal highlighted the illegal practise of offering innocent animals as sacrifices on the grounds of superstition. While preserving human rights, Article 21 of the Constitution also safeguards "life," whose expression has been given a wider scope. Article 21 of the Indian Constitution uses the word "life" in a broad enough sense to refer to all living things, including people, animals, insects, and birds. Depriving someone of their life must follow the legal process. Therefore, it is important in this aspect that animal sacrifice and killing must likewise follow proper protocol.

³¹ 2018 SC 1676

³² (2017) 15 SCC 67

³³ W.P. (C) No.459/2009

³⁴ (2017) 5 SCC 70

³⁶ W.P.(C). TMP-28 OF 2020-

³⁷ Spl. Appl. Writ No. 1344/2019

³⁸ W.P.No.1352 of 201

CONCLUSION

The idea of personal liberty has evolved to a special degree in India in the twenty-first century for the protection of Indian citizens. The Supreme Court of India has also refuted the notion that liberty just refers to freedom from physical restraint and said that it encompasses all the rights and advantages that have been acknowledged as essential to leading a respectable or dignified life.

Personal liberty is not a simple or isolated concept. Usually, its legal protection conflicts with other fundamental ideals. Personal liberty is a very broad concept that covers both fundamental constitutional rights like the freedom from government intrusion into one's home and the individual's right to choose whether to get married, use contraception, or have an abortion, as well as all the rights required for a person to live a happy life. As a result, Article 21 of the Indian Constitution firmly establishes natural justice principles. The idea of Article 21 endures in all of its sub-limits for all time to help the people of India whenever they are in need due to any issue pertaining to their lives and individual rights.

A person's personal liberty is their ability to act whatever they like, subject only to the limitations placed on them by the laws and moral standards of the society they live in to protect the physical, moral, political, and financial well-being of others. Individual freedom is a basic requirement. It shields people from the oppression of the majority. It creates a foundational degree of philosophical, intellectual, spiritual, and economic variety that guarantees there is sufficient room for free play of ideas in a society for the greatest answer to emerge. Any community that wants to advance, whether philosophically, spiritually, physically, or economically, must place a high priority on individual liberty.

The definition of liberty has been greatly expanded in the 21st century. The Indian Supreme Court has rejected the notion that liberty solely refers to freedom from physical restriction, holding instead that it includes those rights and benefits that have long been acknowledged as necessary for the lawful pursuit of pleasure by free persons. As a result of the differing interpretations held by scholars and jurists, the definition of "personal liberty" has been changing over time.

Personal liberty is not a straightforward or singular topic. Its legal protection is inherently at odds with other crucial ideals. Personal liberty is an exceptionally inclusive word that covers both core constitutional rights like the freedom from government intrusions into private spaces and the freedom of people to make their own judgements about things like marriage, contraception, and abortion as well as less clearly defined and debatable but nonetheless important matters.

As a result, Article 21 of the Indian Constitution provides a solid foundation for the concepts of natural justice. All of the fairness that is inherent in the principles of natural justice may be incorporated into Article 21 with the introduction of the concepts of substantive and procedural due process.²⁹ In a democratic country like India, the sun of Article 21 would never fully set, and it would live on in all of its sublimits for all eternity to help the Indian people whenever they are in distress over any matter relating to their lives and personal rights. A crucial component of effective administration is the assurance that people may live in freedom.

SUGGESTIONS

Through its numerous rulings, the courts have enlarged the idea of liberty and continue to work to broaden the applicability and reach of Article 21 in order to consistently uphold citizens' rights. As one of the biggest democracies, India has established these protections for peoples' rights to their liberties. The country only succeeds in defending its citizens' rights via collective efforts, and

cooperation between the populace and the government is the only way this can be done in the future.

The following are a few of the protections that are crucial for the safeguarding of liberty: -

1. A democratic government is the best conceivable guarantor of liberty because it is a government of, by, and for the people, guaranteeing that the people have the freedom to express their opinions and criticise the government.
2. Fundamental rights guarantee that individuals can exercise their freedom and serve as a shield to defend our freedom. As the two sides of the same coin, rights and freedoms are said to be necessary for liberty to exist.
3. Power will be divided among the three branches of government to provide people more freedom by prohibiting one of them from abusing their authority excessively.
4. The rule of law must be upheld. People who break the law should be punished. Laws need to apply to everyone equally. Equal rights should prevail over arbitrary rulings.
5. Lack of special privileges: Everyone should be entitled to the same rights; no one should be granted special advantages as doing so will restrict others' freedom.
6. An honest and free press: The media is seen as the protector of liberty. Press freedom and objectivity are necessary for them to keep the government from acting irresponsibly. According to a quotation from Professor Laski, "The people without reliable news are sooner or later a people without the basis of freedom."
7. Constant pursuit of liberty: Freedom must never be taken for granted. If a violation of one's rights does not go against public policy or other people's rights, it must be questioned and challenged.
8. Lack of unique advantage: If somebody is granted a unique advantage, it would negatively affect the freedom of others. Therefore, the right to freedom belongs to every man equally.
9. Political Education: The preservation of civil liberties requires political understanding. Conscious folks are continuously on the lookout for threats to their freedoms. Whose country can sustain its rights, according to Thomas Jefferson, if its leaders are not periodically cautioned that the populace should reserve the spirit of resistance?
10. Eternal Vigilance: It is crucial for everyone to be vigilant. Men need to be informed of their liberties, obligations, and rights. They will lose their freedom if they are not conscious of their obligations to it.

BIBLIOGRAPHY

REFERENCES

1. <https://www.yourarticlerepository.com/essay/liberty-definition-features-types-and-essential-safeguards-of-liberty/40364.\>
2. <https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/>
3. Liberty, Available at: <https://science.jrank.org/>
4. Two concepts of freedom, Available at: <https://www.open.edu/>
5. Article 21 of the Constitution of India – Right to Life and Personal Liberty, Available at: <https://www.lawctopus.com/>
6. What are the ‘reasonable restrictions’ that can be put on the fundamental Right to Privacy? Available at: <https://scroll.in/>
7. Life, liberty, and privacy under Article 21 of the Constitution of India, 1949, Available at: <https://blog.ipleaders.in/>

DATABASES

SCC Online

Manupatra

HeinOnline

Indian Kanoon