
STATELESSNESS IN INDIA AND ARTICLE 21: CITIZENSHIP NORMS AND THE CONSTITUTIONAL IDEAL OF HUMAN DIGNITY

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ABSTRACT

Statelessness remains amongst the most perplexing yet insufficiently scrutinised conditions within the Indian legal and constitutional landscape. Whilst the Constitution of India stands as an enduring testament to the ideals of liberty, equality, human dignity, and the rule of law, it offers remarkably little explicit guidance concerning individuals who subsist beyond the recognised framework of nationality. This constitutional reticence gives rise to a question of profound juridical and moral significance: namely, how a constitutional polity, founded upon justice and humane governance, ought to respond to those who remain excluded from the formal structure of civic belonging. The predicament of statelessness, therefore, transcends the confines of a mere technical lacuna within nationality law; it reveals a deeper tension between sovereign authority and the ethical obligations inherent within constitutional democracy. This paper endeavours to examine that tension through the interpretive prism of Article 21 and the constitutional ideal of human dignity.

The paper proceeds upon the central contention that although citizenship constitutes the formal basis of political membership within the State, the guarantee of life and personal liberty embodied within Article 21 has, through judicial exposition, evolved into a doctrine of far greater moral amplitude. Indian constitutional jurisprudence has gradually transformed Article 21 from a provision of restrained textual formulation into one of the most dynamic and expansive guarantees within the constitutional order. Through an increasingly purposive mode of interpretation, the judiciary has recognised that the absence of formal nationality cannot become a juridical pretext for the denial of elementary human protections. The courts have repeatedly affirmed that dignity inheres within the human person by virtue of existence itself and cannot be rendered contingent upon documentary recognition or political status alone.

Through an examination of judicial pronouncements, legislative developments, and administrative practices concerning citizenship,

migration, and exclusion, this paper seeks to illuminate the manner in which constitutional interpretation has attempted to navigate the silent interstices surrounding statelessness. Particular attention is devoted to the judiciary's role in mediating between the sovereign prerogatives of the State in matters relating to nationality and immigration, and the enduring constitutional commitment to fairness, liberty, and substantive justice. Judicial reasoning has, on several occasions, resisted the transformation of stateless persons into subjects of legal obscurity, wherein individuals are deprived not merely of nationality, but also of meaningful recognition before the law. In this regard, the judiciary has frequently functioned as the sentinel of constitutional morality, ensuring that executive discretion remains subordinate to constitutional discipline.

The paper further situates the Indian experience within the broader framework of international human rights jurisprudence. Although India has not acceded to the principal international conventions specifically concerning statelessness, constitutional adjudication has often drawn intellectual sustenance from the normative principles embodied within international human rights instruments. Such engagement demonstrates that the Indian constitutional order possesses an interpretive elasticity capable of responding to humanitarian exigencies even in the absence of explicit statutory recognition. The dialogue between domestic constitutionalism and international human rights norms reveals an evolving jurisprudence that remains attentive to vulnerability, exclusion, and the preservation of human dignity.

At a more fundamental level, this paper contends that statelessness presents not merely a legal dilemma, but a profound challenge to the ethical imagination of constitutional governance itself. A constitutional order professing fidelity to justice and dignity cannot remain indifferent to those who inhabit the uncertain margins of legal recognition. The treatment accorded to stateless persons ultimately discloses the moral temperament of the legal system and the extent to which constitutional promises retain their vitality when confronted with individuals bereft of political voice and formal civic identity. In this sense, the constitutional silence surrounding statelessness becomes as revealing as the text itself, for it compels constitutional institutions to determine whether the spirit of justice shall prevail where legislative certainty remains incomplete.

Ultimately, this paper submits that Article 21 emerges not merely as a safeguard against arbitrary deprivation of life and liberty, but as a constitutional affirmation of the intrinsic worth of the human person. Its interpretive expansion reflects the gradual emergence of a jurisprudence that regards humanity, rather than nationality alone, as the ultimate foundation of constitutional protection. The question of statelessness therefore compels

Indian constitutional law to confront an issue of enduring philosophical consequence: whether dignity shall remain confined within the rigid frontiers of citizenship, or whether the Constitution envisions a more expansive moral community grounded in the universal value of human existence itself.

Keywords: Statelessness, Article 21, Human Dignity, Citizenship, Constitutional Interpretation, Judicial Protection.

INTRODUCTION

Statelessness is one of the most serious forms of legal vulnerability within the Indian constitutional system. While the Constitution of India strongly emphasises values such as human dignity, equality before the law, and the protection of personal liberty, it does not directly address the situation of individuals who are left without citizenship. This silence creates an important constitutional dilemma. When a person is not recognised as a citizen by any State, it becomes necessary to ask whether constitutional protection still applies in the same way. The issue therefore raises a deeper question: *“Is the enjoyment of fundamental rights dependent upon political membership, or does the Constitution recognise a conception of dignity anterior to citizenship itself?”*, reiterating Ronald Dworkin’s assertion that *“a state that respects the dignity of its citizens must take seriously the idea that all lives have equal intrinsic value.”*¹

The Constitution itself does not provide a clear answer to this problem. However, a closer reading of the fundamental rights chapter shows that several guarantees are extended to “persons” and not only to citizens. This wording suggests that constitutional protection may not always depend entirely on citizenship status. The importance of this distinction became clearer after the decision in *Maneka Gandhi v. Union of India*², where the Supreme Court expanded the meaning of Article 21. The Court rejected a narrow interpretation of personal liberty and held that any law affecting life or liberty must be just, fair, and reasonable.³ Once this principle is accepted, another question naturally follows: *“Can the sovereign power to regulate citizenship extend to the negation of human dignity?”*⁴

¹ Ronald Dworkin, *Life’s Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom* 7 (Alfred A. Knopf 1993).

² *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

³ *Ibid.*, para 5, 7 & 56.

⁴ Andrea Marilyn Pragashini Immanuel, *The Meaning of ‘Life’ under the Indian Constitution and the Obligation Not to Render Persons Stateless*, 3 *Statelessness & Citizenship Rev.* 255 (2021).

Within this debate, Article 21 assumes particular importance. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*⁵, the Supreme Court emphasised that the right to life includes the right to live with human dignity.⁶ This interpretation significantly broadened the scope of Article 21 and made it clear that dignity is not limited by rigid legal categories. From this perspective, an important question arises: “*Can Article 21 operate as a constitutional refuge for those whom citizenship law fails to recognise?*” The question becomes even more relevant today, when access to documents, welfare schemes, and legal remedies often depends on proof of citizenship.⁷

The constitutional relevance of this issue can also be seen in *National Human Rights Commission v. State of Arunachal Pradesh*⁸, where the Supreme Court affirmed that Article 21 applies to all human beings, including non-citizens.⁹ Statelessness, therefore, cannot simply be treated as an administrative problem. Rather, it exposes deeper tensions within legal systems that connect the enjoyment of rights too closely with nationality. *As the Court observed in Olga Tellis v. Bombay Municipal Corporation*¹⁰, the right to life under Article 21 is not limited to mere physical survival but includes the conditions necessary for living with dignity.^{11 12}

Seen in this context, statelessness forces the Constitution to confront its own moral commitments. Individuals who are excluded from the formal political community may still live within the territory of the State and remain subject to its laws and authority. This situation leads to a final and difficult question: “*What becomes of constitutional guarantees when the subject of rights is rendered juridically invisible?*” This chapter proceeds on the understanding that constitutional silences do not necessarily mean the absence of protection. Instead, they invite careful interpretation. From this standpoint, Article 21 may be understood as a constitutional safeguard capable of protecting human dignity even in situations where citizenship law fails to

⁵ Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 S.C.C. 608.

⁶ Ibid., para 6–7.

⁷ Jayanta Boruah, Legal Status of Stateless Children in India and their Right over Access to Justice, 4(3) Int'l J. L. Mgmt. & Humanities 1644 (2021).

⁸ National Human Rights Commission v. State of Arunachal Pradesh, (1996) 1 S.C.C. 742.

⁹ Ibid., para 20–21.

¹⁰ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 S.C.C. 545.

¹¹ Ibid., para 32, 34.

¹² Aishwarya Birla, Statelessness as an Academic Concern: The Indian Supreme Court's Engagement with Citizenship Policy in In Re: Section 6A of the Citizenship Act, 1955, 7 Statelessness & Citizenship Rev. 85 (2025).

provide recognition.^{13 14}

CITIZENSHIP AND BELONGING UNDER THE INDIAN CONSTITUTIONAL SCHEME

Citizenship under the Indian Constitution carries both legal importance and a certain degree of conceptual uncertainty. The Constitution does not treat citizenship merely as a formal indicator of political membership. Instead, it reflects the historical realities in which the Constitution was framed, particularly the experiences of Partition, large-scale displacement, and migration. Articles 5 to 11 in Part II of the Constitution were designed mainly to deal with the immediate circumstances of independence rather than to present a complete or permanent theory of citizenship and belonging. As a result, these provisions functioned largely as transitional arrangements. Over time, this temporary character has had lasting implications, leaving the idea of citizenship only partly developed within the constitutional framework and open to legislative and administrative change.¹⁵

The framers approached the issue of citizenship with a strong awareness of the historical conditions surrounding independence. Their focus was on addressing practical challenges rather than establishing a rigid theoretical framework. In this context, Roscoe Pound's observation that "The law must be stable, but it must not stand still" remains particularly relevant. This idea reflects his theory of social engineering, which suggests that law must evolve with society while maintaining stability.¹⁶ When the Constitution was drafted, questions relating to allegiance, domicile, and migration were still unsettled. A strict constitutional definition of citizenship might have intensified social divisions rather than eased them. The framers therefore adopted a flexible approach, allowing the basic framework of citizenship to exist in the Constitution while leaving detailed regulation to future legislative action. Although this decision was understandable in the circumstances, it also meant that the Constitution did not establish a clearly articulated and enduring vision of belonging.

Consequently, citizenship in India functions less as a fundamental constitutional right and more as a legal status governed largely by ordinary legislation. Parliament was given the authority

¹³ Urvi Pathak, *Statelessness and The Citizenship Amendment Act, 2019: The Case of Sri Lankan Tamil Refugees*, 17(2) Socio-Legal Rev. 156 (2021).

¹⁴ India - Statelessness Encyclopaedia Asia Pacific - SEAP.

¹⁵ India Const. arts. 5 – 11.

¹⁶ Roscoe Pound, *Introduction to the Philosophy of Law* 12–15 (1922).

to regulate citizenship, which allows the law to adapt to changing social and political conditions. At the same time, this arrangement exposes citizenship to shifts in policy priorities and administrative interpretation. In the absence of clear constitutional principles governing inclusion and exclusion, the meaning of citizenship may change over time. As a result, questions about citizenship often become closely linked with broader debates concerning identity, sovereignty, and national belonging. Without firm constitutional guidance, these issues frequently emerge as areas of legal and political dispute.¹⁷

Article 11 of the Constitution grants Parliament broad authority to regulate citizenship through ordinary legislation. This delegation of power reflected the practical need for flexibility in the years immediately following independence. However, it also carries certain constitutional risks. Because the Constitution does not clearly define the principles that should guide citizenship policy, legislative changes may sometimes produce exclusionary outcomes without strong judicial safeguards. Citizenship therefore becomes a legal status that can shift according to statutory frameworks and administrative decisions. This flexibility becomes particularly significant when the denial or withdrawal of citizenship affects not only political participation but also the basic conditions necessary for living with dignity.¹⁸

The constitutional text also distinguishes between rights reserved for citizens and rights available to all persons. Political rights, including participation in democratic governance, are restricted to citizens. In contrast, fundamental rights such as equality before the law and the protection of life and personal liberty are granted to every person within the territory of India. This distinction indicates that although citizenship is important for political participation, the Constitution recognises that certain basic protections must apply to all individuals. The Supreme Court highlighted this principle in *National Human Rights Comm'n v. State of Arunachal Pradesh*¹⁹, where it observed that some rights are granted to every human being while others are limited to citizens.²⁰ In that case, the Court stated:

“...We are a country governed by the Rule of Law...no person can be deprived of his life or personal liberty except according to procedure established by law. Thus the State is bound to protect the life and liberty of every human-being, be he a citizen or

¹⁷ Rajinder Verma & Shashi Poonam, Citizenship and the Constitution: Legal Reflections on Identity and Inclusion in India, 7 Int'l J. for Multidisciplinary Research 1, 1–2 (2025).

¹⁸ How citizenship was decided by makers of Indian Constitution, Indian Express (Oct. 3, 2024).

¹⁹ National Human Rights Commission v. State of Arunachal Pradesh, (1996) 1 S.C.C. 742.

²⁰ Navigating Indian Citizenship: A Comprehensive Analysis of Laws, Civil Law Journal (2024).

*otherwise, and it cannot permit any body or group of persons, e.g., the AAPSU, to threaten the Chakmas to leave the State, failing which they would be forced to do so. No State Government worth the name can tolerate such threats by one group of persons to another group of persons; it is duty bound to protect the threatened group from such assaults and if it fails to do so, it will fail to perform its Constitutional as well as statutory obligations. Those giving such threats would be liable to be dealt with in accordance with law... ”*²¹

At the same time, this constitutional structure reveals an underlying tension. Citizenship serves as the gateway to full participation in civic life, while the absence of citizenship often places individuals in a condition of uncertainty and vulnerability. Without recognised legal status, people may struggle to obtain identity documents, access welfare schemes, or secure stable employment. These limitations do not always appear as direct punishment under the law, yet they gradually create a situation in which individuals remain present within the territory of the State but excluded from many of the protections that make life secure and dignified.

Judicial interpretation has often attempted to address this difficulty by emphasising that constitutional protections cannot depend entirely on formal membership. In *Chairman, Ry. Bd. v. Chandrima Das*²², the Supreme Court clearly held that the right to life under Article 21 extends to every person, including foreign nationals.²³ This approach reflects a broader constitutional understanding that the State carries a responsibility toward all individuals within its jurisdiction. Article 21 therefore acts as a safeguard ensuring that the absence of citizenship cannot justify the denial of basic human dignity. In this sense, the Constitution recognises that while citizenship defines political belonging, the protection of life and liberty rests upon a deeper commitment to the value of human existence itself.

THE PHENOMENON OF STATELESSNESS IN INDIA: LEGAL AND ADMINISTRATIVE DIMENSIONS

Statelessness in India is not merely a technical problem within the law. It raises deeper questions about political belonging and social recognition. When a person does not possess formal nationality, their existence often becomes uncertain within the legal and administrative

²¹ Ibid., para 20–21.

²² *Chairman, Railway Board v. Chandrima Das*, (2000) 2 S.C.C. 465.

²³ Ibid., para 17 & 19.

structure of the State. Such individuals may live within the territory of the country, yet their identity remains unrecognised in official records. As a result, they are frequently excluded from the rights, protections, and recognition that normally accompany citizenship. This condition produces a form of invisibility in which people are physically present within society but remain outside the framework of legal acknowledgment. This invisibility does not operate only within the legal system. It often extends into social and cultural life as well. Individuals who lack documentation or formal registration may struggle to find recognition within the broader community. In many cases, their absence from official records leads to exclusion from the shared social understanding of membership within the nation. Statelessness therefore reveals a deeper structural issue, demonstrating the limits of the State's ability to account for every individual living within its territory. It raises important questions about how law defines belonging and how political communities determine who is recognised as a member.

Historical developments have played an important role in producing such situations. The Partition of the Indian subcontinent and the large scale migration that followed created complex questions of nationality and residence. Many individuals who crossed borders during this period depended upon administrative recognition to establish their legal identity. In some instances this recognition was incomplete or delayed, leaving individuals without clear nationality. Even beyond these historical events, similar situations continue to arise because of migration, administrative error, or gaps in documentation. Statelessness therefore reflects not only legal uncertainty but also broader questions about identity, recognition, and the responsibilities of the State toward those who reside within its territory.²⁴

From a legal perspective, statelessness is closely connected to the structure of citizenship law. The Constitution empowered Parliament under Article 11 to regulate citizenship, and this authority was exercised through the Citizenship Act of 1955 and its subsequent amendments. While these laws were intended to organise the process of recognising citizenship, they have at times produced unintended consequences. Individuals displaced by migration, administrative mistakes, or documentary gaps may find themselves unable to prove their legal status. In such situations their presence within the country becomes dependent upon bureaucratic verification rather than clear legal recognition.

²⁴ Urvi Pathak, *Statelessness and the Citizenship Amendment Act, 2019: The Case of Sri Lankan Tamil Refugees*, 17(2) Socio-Legal Rev. 156 (2021).

Courts have occasionally addressed these concerns through constitutional interpretation. In *Chairman, Railway Board v. Chandrima Das*²⁵, the Court observed:

"...since "LIFE" is also recognised as a basic human right in the Universal Declaration of Human Rights, 1948, it has to have the same meaning and interpretation as has been placed on that word by this Court in its various decisions relating to Article 21 of the Constitution. The meaning of the word "life" cannot be narrowed down. According to the tenor of the language used in Article 21, it will be available not only to every citizen of this country, but also to a "person" who may not be a citizen of the country.

*Let us now consider the meaning of the word "LIFE" interpreted by this Court from time to time. In Kharak Singh vs. State of U.P., AIR 1963 SC 1295, it was held that the term "life" indicates something more than mere animal existence. The inhibitions contained in Article 21 against its deprivation extends even to those faculties by which life is enjoyed..."*²⁶

Through this reasoning, the Court affirmed that the protection of life and personal liberty under Article 21 extends to every person and is not limited only to citizens. This interpretation offers an important constitutional safeguard for individuals whose citizenship status remains uncertain or disputed.²⁷

Administrative practices also contribute significantly to the experience of statelessness. Access to public services in India often depends upon documentation such as ration cards, electoral registration, or Aadhaar identification. These documents are frequently necessary for obtaining education, healthcare, and welfare benefits. Individuals who cannot produce such records face serious difficulties in securing these basic services. Recent initiatives aimed at verifying citizenship, including the National Register of Citizens, have sought to bring clarity to questions of nationality. However, they have also created anxiety among marginalised communities, particularly for those who lack historical documents to establish lineage or residence. In such situations individuals may find themselves trapped in prolonged

²⁵ *Chairman, Railway Board v. Chandrima Das*, (2000) 2 S.C.C. 465.

²⁶ *Ibid.*, para 20- 23.

²⁷ Ruksana Akhtar, Kshitij Naikade & Bibhabasu Misra, *Defining Statelessness in India: Jurisprudential Aspect*, 10 Int'l J. Mod. Agric. 1 (2021).

administrative uncertainty.²⁸

Certain groups are especially vulnerable to these conditions. Women, children, religious minorities, ethnic communities, and persons displaced by conflict often face greater challenges in obtaining or preserving documentation. Children born to stateless parents may inherit the same uncertainty regarding nationality, which can extend the problem across generations. The effects of this condition are significant. Limited access to education, healthcare, employment, and social security gradually produces deep social and economic marginalisation. Such exclusion stands in tension with the constitutional ideals of dignity, equality, and liberty.²⁹

I. NRC and Constitutional Proportionality

The exercise of updating the National Register of Citizens (NRC) presents a significant constitutional dilemma concerning the balance between sovereign regulatory power and the protection of fundamental rights under Article 21. While the State possesses a legitimate authority to regulate migration and identify unlawful entrants, constitutional governance requires that such authority be exercised within the limits of fairness, proportionality, and non-arbitrariness. The constitutional validity of the NRC process therefore cannot be examined solely through administrative objectives or national security concerns. It must equally be assessed in light of the human consequences that may arise from exclusion, particularly where such exclusion carries the possibility of statelessness.³⁰

A central constitutional concern surrounding the NRC process lies in its excessive dependence upon documentary verification. Individuals are frequently required to establish lineage, ancestry, and territorial connection through records dating back several decades. In theory, such requirements may appear administratively rational. In practice, however, they impose severe burdens upon economically and socially vulnerable populations. Large sections of society, especially those affected by poverty, displacement, illiteracy, migration, floods, or administrative neglect, often lack complete documentary records despite possessing genuine and longstanding ties to the country. Consequently, the inability to furnish documents does not necessarily establish foreign nationality; rather, it frequently reflects structural inequalities and

²⁸ Anushka Sharma, Contextualizing Statelessness in the Indian Legal Framework, Christ Univ. L.J. (2023).

²⁹ Sugandha Nagpal & Amrita Hari, The National Register of Citizens in India and the Potential for Statelessness in Situ: A Cautionary Tale from Assam, Contemporary South Asia (2022).

³⁰ Assam Sanmilita Mahasangha v. Union of India, (2015) WP (C) No. 274 of 2009.

historical marginalisation.³¹

The constitutional implications of this evidentiary burden become particularly serious when viewed through the doctrine of proportionality. Indian constitutional jurisprudence has repeatedly affirmed that State action must not impose disproportionate hardships in pursuit of legitimate objectives. Even where the objective itself is constitutionally permissible, the methods employed must remain reasonable, just, and balanced. A citizenship verification mechanism that risks exposing individuals to statelessness solely because of documentary deficiencies raises substantial constitutional concerns regarding procedural fairness and substantive justice.³²

The NRC process therefore creates a distinction not merely between citizens and non-citizens, but between those capable of proving citizenship through formal paperwork and those unable to do so despite genuine social and territorial belonging.³³ This distinction assumes grave constitutional significance because the denial of legal recognition may ultimately deprive individuals of meaningful access to employment, education, healthcare, housing, and legal remedies. Exclusion from citizenship frameworks may thereby produce a condition of civil invisibility wherein persons continue to physically exist within society while simultaneously remaining excluded from its institutional protections. Such a consequence stands in tension with the constitutional vision of dignity embodied within Article 21.³⁴

The principle of proportionality further requires that the harms produced by administrative measures must not outweigh their intended objectives. While the prevention of unlawful migration remains a legitimate concern of governance, constitutional democracy cannot permit procedures that expose vulnerable populations to indefinite uncertainty, exclusion, or the possibility of statelessness without adequate safeguards. International human rights principles have consistently emphasised that States should avoid actions capable of rendering persons stateless, particularly where individuals possess longstanding social and cultural ties to the territory concerned.³⁵ The constitutional legitimacy of the NRC process therefore depends not merely upon its administrative purpose, but upon the extent to which it preserves human dignity

³¹ Priyaranjan Jha, 'Identifying Illegal Migrants through NRC Process Will Be Cumbersome, Costs Dear Outweigh Benefits' *The Indian Express* (2020).

³² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

³³ Shivam Vij, 'Why India Doesn't Need NRC', *The Print* (2019).

³⁴ Universal Declaration of Human Rights, adopted 10 December 1948, UNGA Res 217 A(III), art 15.

³⁵ UNHCR, Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5–9 of the 1961 Convention on the Reduction of Statelessness (May 2020) UN Doc HCR/GS/20/05.

and minimises arbitrary exclusion.

In this context, procedural safeguards acquire immense constitutional importance. Citizenship determination mechanisms must incorporate transparency, accessibility, evidentiary flexibility, and meaningful judicial oversight. Community testimony, educational records, local administrative documents, and other associative forms of proof should be recognised where formal documentation is unavailable. Equally essential is the availability of legal aid, appellate review, and reasoned administrative decisions in all proceedings affecting citizenship status. Constitutional protection cannot remain theoretical; it must operate in a manner capable of protecting ordinary individuals from the harsh consequences of bureaucratic exclusion.³⁶

Ultimately, the constitutional debate surrounding the NRC extends beyond questions of migration control alone. It compels constitutional law to confront a more enduring issue concerning the relationship between citizenship and human dignity. Article 21 does not permit the State to reduce individuals into mere subjects of administrative classification. Rather, it requires that every exercise of public power remain accountable to the constitutional values of humanity, fairness, and non-arbitrariness. The true measure of constitutional governance therefore lies not only in its capacity to regulate borders, but also in its willingness to preserve the dignity of those who stand at the uncertain margins of legal recognition.

CONSTITUTIONAL SILENCES AND THEIR JURISTIC CONSEQUENCES

The Indian Constitution is widely admired for the breadth of rights and principles it contains. It speaks strongly about equality, dignity, and the rule of law. Yet, despite this wide constitutional vision, certain issues remain unaddressed in clear terms. One such area concerns the legal recognition and protection of stateless persons. The Constitution does not directly explain how individuals who lack citizenship should be treated within the legal system. This absence is important because stateless individuals often live within the territory of the State while remaining outside its formal framework of citizenship and protection.³⁷

This silence must be understood in light of the historical conditions in which the Constitution was drafted. The framers were dealing with the immediate challenges of independence,

³⁶ Citizenship Act 1955, s 10(2).

³⁷ Sibiya S., *The Analysis of Statelessness in India*, 12 Int'l J. Res. & Anal. Rev. 107, (2025).
Hannah Arendt, *The Origins of Totalitarianism* (Houghton Mifflin Harcourt 1973) 296–97.

Partition, and the formation of a new political order. Questions of citizenship, migration, and belonging were unsettled and constantly changing. Under such circumstances, the Constitution left the regulation of citizenship largely to Parliament. While this approach allowed flexibility, it also meant that the Constitution itself did not create a clear framework for individuals who fall outside formal citizenship structures.

The result is a situation in which some individuals remain physically present within the territory of India but lack clear legal recognition. They may live, work, and participate in society, yet their legal status remains uncertain. In this sense, stateless persons occupy a difficult space within the constitutional system. The moral language of the Constitution appears to include them, yet the legal mechanisms for recognition are often unclear.³⁸

Such silences are not limited only to citizenship. They appear in several areas of constitutional law where broad principles exist but specific mechanisms remain undefined. Carol Batchelor describes nationality as “*a necessary precursor to the exercise of other rights.*”³⁹ Without recognised nationality, access to many rights becomes practically difficult. In these circumstances, courts are often required to interpret constitutional provisions broadly in order to ensure that individuals are not left without protection.

Judicial interpretation has therefore played an important role in addressing these gaps. Courts have expanded the scope of fundamental rights, especially in areas relating to personal liberty, dignity, and livelihood. Yet judicial action is usually reactive. Courts respond to disputes brought before them rather than creating comprehensive solutions in advance. As a result, constitutional development in this area has been gradual and case based.^{40 41}

In everyday life, constitutional silence can produce serious consequences. Stateless persons may find it difficult to obtain identity documents, access healthcare, enrol in educational institutions, or claim welfare benefits. Without recognised legal identity, even ordinary administrative processes become obstacles. These challenges are not merely technical or

³⁸ Lindsey N Kingston, ‘Worthy of Rights: Statelessness as a Cause and Symptom of Marginalisation’ in Tendayi Bloom, Katherine Tonkiss and Phillip Cole (eds), *Understanding Statelessness* (Taylor & Francis 2017) 17, 26.

³⁹ Carol A Batchelor, ‘Statelessness and the Problem of Resolving Nationality Status’ (1998)10(1) *International Journal of Refugee Law* 156, 159.

⁴⁰ Padmini Baruah, *The Blind Side: India’s Tryst with Citizenship, Deprivation and Statelessness*, Fletcher Forum of World Affairs (May 2020).

⁴¹ Universal Declaration of Human Rights, GA Res 217A (III), UN GAOR, UN Doc A/810 (10 December 1948).

bureaucratic. They affect the ability of individuals to live with dignity and security. The constitutional promise of equality becomes difficult to realise when access to basic services depends on documentation that some individuals simply do not possess.

This situation is further complicated by the existence of multiple statutory regimes regulating citizenship and residence. Each law may require different forms of proof, documentation, or administrative verification. When these rules operate without clear constitutional guidance, individuals may find themselves caught between overlapping legal requirements. The result is often confusion, delay, or exclusion.

These issues also raise deeper philosophical questions. If the Constitution proclaims equality and dignity as universal values, can it tolerate situations where certain groups remain effectively invisible within the legal order? The absence of explicit provisions for stateless persons exposes a tension between the sovereign power of the State and its moral obligation to protect human dignity. It raises questions about the limits of purely formal legality and the need for constitutional interpretation that reflects broader ethical commitments.⁴²

Administrative practice illustrates this tension very clearly. In matters of citizenship documentation or proof of residence, officials exercise considerable discretion. Where constitutional guidance is limited, this discretion may lead to inconsistent decisions, delay, or error. Individuals seeking recognition may spend years navigating bureaucratic procedures with uncertain outcomes. When such disputes eventually reach the courts, judges must balance strict legal requirements with broader principles of justice and fairness.⁴³

At the same time, constitutional silence also creates space for interpretation and institutional response. Courts have often interpreted Article 21 in expansive terms, emphasising that the protection of life and personal liberty must apply broadly. Similarly, Parliament and the executive have the capacity to create legislative and policy mechanisms that address the risks of exclusion. In this sense, constitutional silence does not necessarily mean constitutional indifference. It can also invite institutions to interpret and develop constitutional principles in

⁴² Dharamvir, *Statelessness and the Role of Law: A Comparative Study of the Rohingya in Myanmar and NRC-Affected Communities in Assam, India*, *Indian J. Law & Legal Research* (2025).

⁴³ Sugandha Nagpal & Amrita Hari, *The National Register of Citizens (NRC) in India and the Potential for Statelessness in Situ: A Cautionary Tale from Assam*, 30 *Contemp. S. Asia* 194 (2022).

response to new challenges.⁴⁴

Ultimately, constitutional silences reveal both the strengths and limitations of the constitutional framework. They show that constitutional law must constantly adapt to social realities that may not have been anticipated by its framers. For stateless persons in particular, these silences highlight the gap between the ideals expressed in constitutional language and the realities experienced in everyday life. Addressing that gap requires sustained attention from courts, legislatures, and administrators alike. The Constitution may not speak directly on every issue, but its underlying commitment to dignity and justice continues to guide the interpretation of its provisions.⁴⁵

ARTICLE 21 AND THE EXPANSION OF THE RIGHT TO LIVE WITH HUMAN DIGNITY

I. From Mere Animal Existence to a Life of Worth

Article 21 of the Constitution has undergone a significant transformation through judicial interpretation. Initially it was understood mainly as a protection against unlawful deprivation of life or liberty. Over time, however, courts began to interpret the provision in a broader and more meaningful manner. The right to life came to be understood not simply as the right to survive but as the right to live with dignity and basic human respect.⁴⁶

One of the most important statements of this principle appears in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*⁴⁷. Justice P. N. Bhagwati observed:

“...the right to life enshrined in Article 21 can not be restricted to mere animal existence. It means something much more than just physical survival. In Kharak Singh v. State of Uttar Pradesh Subba Rao J. quoted with approval the following passage from the judgment of Field J. in Munn v. Illinois to emphasize the quality of life covered

⁴⁴ Andrea Marilyn Pragashini Immanuel, The Meaning of “Life” under the Indian Constitution and the Obligation Not to Render Persons Stateless: With Reference to the NRC in Assam, *Statelessness & Citizenship Rev.* (2021).

⁴⁵ S. Shanmathi, The Dual Identity Crisis: India’s Statelessness Population and the Gaps in International Legal Obligations, 3(2) *White Black Legal Rev.* (2025).

⁴⁶ “Beyond Survival: The Transformative Role of Article 21 of the Indian Constitution,” *Indian J. L. & Legal Research* (2025).

⁴⁷ *Francis Coralie Mullin v. Adm’r, Union Territory of Delhi*, (1981) 1 S.C.C. 608.

by Article 21:

"By the term 'life' as here used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body or amputation of an arm or leg or the putting out of an eye or the destruction of any other organ of the body through which the soul communicates with the outer world." ..."⁴⁸

This interpretation changed the meaning of Article 21 in a fundamental way. Life under the Constitution came to include the conditions necessary for a meaningful human existence. It was no longer limited to physical survival but extended to dignity, autonomy, and personal development.

The Supreme Court reinforced this understanding in *Sunil Batra (II) v. Delhi Administration*⁴⁹. Even individuals who are imprisoned, the Court observed, retain their basic human dignity. The State cannot treat them in ways that undermine their humanity or self respect. Constitutional protections therefore continue to operate even within prisons.⁵⁰

Through these decisions the judiciary gradually transformed Article 21 into one of the most dynamic provisions of the Constitution. It now operates as a safeguard that protects not only liberty but also the conditions necessary for a dignified life. The provision reflects the idea that the State must treat individuals as persons with inherent worth rather than as mere subjects of administrative authority. In this sense, Article 21 serves as a living guarantee that evolves with changing social and moral understandings.⁵¹

II. Universality of Article 21 Beyond the Boundaries of Citizenship

A distinctive feature of Article 21 is that it applies to every person rather than only to citizens. Several fundamental rights in the Constitution are restricted to citizens, particularly those relating to political participation. Article 21, however, deliberately uses the word "person." This wording indicates that the protection of life and personal liberty extends to all individuals

⁴⁸ Ibid., para 11.

⁴⁹ *Sunil Batra (II) v. Delhi Administration*, (1980) 3 S.C.C. 488.

⁵⁰ Ibid., para 17, 18.

⁵¹ Renuka Nevgi, Human Rights and Article 21 of the Constitution of India, *Black n' White Journal* (Apr. 29, 2020).

within the territory of India.

The Supreme Court clearly affirmed this principle in *National Human Rights Commission v. State of Arunachal Pradesh* ⁵². The Court recognised that the State has a responsibility to protect the life and liberty of every human being within its jurisdiction, including those who are not citizens. ^{53 54}

This interpretation has particular importance in a country shaped by migration, displacement, and complex histories of border movement. Strict legal distinctions between citizens and non citizens may not always reflect the realities of people's lives. Courts have therefore emphasised that basic human dignity cannot depend entirely upon citizenship status.

The decision in *Chairman, Railway Board v. Chandrima Das* ⁵⁵ illustrates this point clearly. The Court held that Article 21 protects even a foreign national who has suffered a violation of dignity within Indian territory. ⁵⁶ The judgment reflects a broader constitutional understanding that the protection of life and dignity must apply to every individual subject to the authority of the State.

In this way, Article 21 functions as a bridge between legal status and human rights. Even where citizenship is uncertain or absent, the Constitution continues to recognise the intrinsic worth of the human person. The provision ensures that the absence of formal membership does not result in the complete denial of legal protection. In affirming the universality of life and liberty, Article 21 reflects the deeper moral commitment of the Constitution to human dignity. ⁵⁷

III. Dignity as a Normative Constraint on State Power

The recognition of dignity within Article 21 has important implications for the exercise of state power. Dignity does not operate only as a philosophical ideal. It also functions as a practical standard against which government action must be judged.

⁵² National Human Rights Comm'n v. State of Arunachal Pradesh, (1996) 1 S.C.C. 742.

⁵³ Ibid., para 20–21.

⁵⁴ Jayanta Boruah, Legal Status of Stateless Children in India and Their Right over Access to Justice, 4(3) Int'l J. L. Mgmt. & Hum. 1644 (2021).

⁵⁵ Chairman, Ry. Bd. v. Chandrima Das, (2000) 2 S.C.C. 465.

⁵⁶ Ibid., para 17–19.

⁵⁷ Priyanshi Soni, The Wide Aspect of Article 21 in Light of Nandita Haksar v. State of Manipur, iPleaders Blog (2020).

A major step in this development occurred in *Maneka Gandhi v. Union of India*⁵⁸. The Supreme Court held that any procedure which deprives a person of life or liberty must be just, fair, and reasonable.⁵⁹ This interpretation ensured that the State cannot rely on arbitrary or oppressive procedures when restricting fundamental rights. Article 21 therefore became a powerful safeguard against unfair state action.⁶⁰

Further development occurred in *Bandhua Mukti Morcha v. Union of India*⁶¹, where the Court linked the right to live with dignity to the Directive Principles of State Policy. This interpretation emphasised that the Constitution must be read as a whole. The right to life includes not only protection from physical harm but also the social conditions necessary for a dignified existence.⁶²

This understanding has particular relevance for individuals who face exclusion or uncertainty regarding citizenship. Actions that deprive individuals of recognition, security, or basic protections raise serious constitutional concerns. Increasingly, courts have also acknowledged international legal principles relating to the prevention of statelessness. Even in the absence of explicit statutory provisions, these principles may influence judicial reasoning where state action threatens to leave individuals without any recognised legal status.⁶³

Dignity therefore operates as a constitutional constraint on the exercise of power. It requires the State to justify its actions not only through formal legality but also through fairness and humanity. Article 21 thus functions both as a shield protecting individuals from dehumanising treatment and as a standard against which the legitimacy of state action can be measured.⁶⁴

JUDICIAL ENGAGEMENT WITH STATELESSNESS AND NON CITIZENS' RIGHTS

I. The Judicial Rejection of Civic Erasure

⁵⁸ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

⁵⁹ *Ibid.*, para 56–59.

⁶⁰ Kushal Sarkar & Abdul Awal, *Reflexivity and Emotion in the Citizenship Journey of Stateless India-Bangladesh Enclave Dwellers*, *Discovery Global Soc.* 59 (2024).

⁶¹ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 S.C.C. 161.

⁶² *Ibid.*, para 10, 23.

⁶³ *Gangadhar Yashwant Bhandare v. Erasmo Jesus de Sequeira*, (1975) 1 S.C.C. 544, 22–23. *Ramesh Chennamaneni v. Union of India*, W.P. No. 24297 of 2018, 48–50 (Telangana H.C. July 10, 2019).

⁶⁴ Morten Kjaerum & Allan Rosas, *The Right to Nationality and Statelessness*, 8 *Ann. Surv. Int'l & Comp. L.* 19 (2002).

The Indian constitutional framework does not explicitly address the condition of statelessness. Yet, the absence of an express textual provision has not prevented the judiciary from engaging with the deeper constitutional implications that arise when individuals lack formal citizenship. On several important occasions the courts have resisted the suggestion that constitutional protection is exclusively tied to political membership in the form of nationality. Instead, judicial reasoning has gradually developed around the principle that the Constitution cannot permit the complete civic disappearance of those who exist outside recognised categories of citizenship. In this sense the judiciary has played a significant role in ensuring that the absence of nationality does not translate into the absence of legal protection.

This judicial engagement has not taken the form of an elaborate doctrinal framework dealing specifically with statelessness. Rather, the courts have approached the issue indirectly through the interpretation of fundamental rights, particularly Articles 14 and 21 of the Constitution. These provisions have consistently been understood to apply to all persons within the territory of India and not merely to citizens. Through this interpretive approach the judiciary has ensured that individuals who lack formal citizenship remain visible within the constitutional order. The courts have therefore functioned as a moderating institution, ensuring that the boundaries of sovereignty do not become instruments of exclusion or abandonment.⁶⁵

A leading illustration of this approach can be found in *National Human Rights Commission v. State of Arunachal Pradesh*⁶⁶. The case arose from attempts by local authorities and political groups to forcibly remove members of the Chakma community who had settled in Arunachal Pradesh after migrating from present day Bangladesh. Although the Chakmas had lived in the region for many years, their citizenship status remained uncertain and this uncertainty was invoked as a justification for their expulsion. The Supreme Court firmly rejected such reasoning. It held that the State government was constitutionally bound to protect the life and personal liberty of the Chakma refugees and could not permit their forced displacement.

In reaching this conclusion the Court emphasised that the guarantees contained in Article 21 are not confined to citizens alone. The protection of life and liberty extends to every human being who is physically present within the territory of India. The judgment is significant

⁶⁵ International Journal of Criminal, Common and Statutory Law, Article 21 (Right to Life and Dignity): Concerns Have Also Been Raised About the NRC Potentially Rendering Individuals Stateless, 5(2) Int'l J. Crim., Comm. & Statutory L. 137 (2025).

⁶⁶ *National Human Rights Commission v. State of Arunachal Pradesh*, (1996) 1 S.C.C. 742.

because it places human existence rather than legal status at the centre of constitutional protection. By affirming that the State has a duty to protect all persons within its jurisdiction, the Court made it clear that sovereignty cannot be used as a justification for tolerating violence, intimidation, or collective displacement. Although the Court did not expressly characterise the situation as one of statelessness, the reasoning demonstrates a recognition that individuals who lack nationality often occupy a position of acute vulnerability within the legal system. The judgment therefore represents an important moment in which constitutional principles were invoked to prevent the marginalisation of a community whose legal status remained uncertain.

67 68

The relationship between sovereignty and constitutional protection becomes even clearer when this decision is read together with *Louis De Raedt v. Union of India*⁶⁹. In that case the Supreme Court addressed the powers of the State with respect to the regulation and expulsion of foreigners. The Court acknowledged that control over the entry and presence of foreigners forms part of the sovereign authority of the State. At the same time it recognised that foreigners are not entirely outside the scope of constitutional protection. The Court observed that while the right to reside and settle in India under Article 19(1)(e) is restricted to citizens, foreigners are nevertheless entitled to the protection of life and personal liberty guaranteed under Article 21.

A related constitutional question arose in *Mohammad Salimullah v. Union of India*⁷⁰, which concerned the potential deportation of Rohingya refugees residing in India. In its observations the Supreme Court reiterated an important constitutional distinction. It acknowledged that the right to reside and settle in any part of the territory of India is reserved for citizens under Article 19. At the same time the Court affirmed that the protections contained in Articles 14 and 21 apply to all persons irrespective of citizenship. The Court therefore noted that although non citizens cannot claim a general right to remain in India, the exercise of deportation powers must still respect the requirements of equality and personal liberty.⁷¹

Taken together these decisions reveal a careful balancing exercise within Indian constitutional jurisprudence. On the one hand the courts have consistently recognised the sovereign authority

⁶⁷ Ibid., para 19 – 21.

⁶⁸ A Descriptive Study of Refugees and Their Status in India, Woxsen Law Review (2025).

⁶⁹ *Louis De Raedt v. Union of India*, (1991) 3 S.C.C. 554.

⁷⁰ *Mohammad Salimullah v. Union of India*, WP. (C) No. 793 of 2017.

⁷¹ Ibid., para 13.

of the State to regulate citizenship and control immigration. On the other hand they have refused to allow this authority to operate without constitutional restraint. By insisting that fundamental guarantees such as equality before the law and protection of life and liberty apply to all persons within the territory of India, the judiciary has ensured that individuals who lack citizenship are not rendered entirely invisible within the legal system.

Judicial scrutiny in this context does not diminish the sovereignty of the State. Instead it refines the manner in which sovereign power is exercised by aligning it with constitutional values. The courts have therefore acted as guardians of the constitutional promise that dignity and liberty cannot depend solely upon the possession of nationality. Even in the absence of an explicit doctrine of statelessness, Indian constitutional jurisprudence has thus developed an important principle. No individual within the jurisdiction of the Republic may be reduced to a condition of legal non existence simply because the law does not recognise them as a citizen.⁷²

II. Dignity, Humanity, and the Limits of Formal Status

The extension of constitutional protection to non citizens received further doctrinal clarification in *Chairman, Railway Board v. Chandrima Das*⁷³. In this case the Supreme Court held that a foreign national who had been subjected to a grave violation of her dignity was entitled to compensation under Article 21 of the Constitution. The decision is important because it disrupted the commonly assumed connection between citizenship and the enjoyment of certain fundamental rights. The Court made it clear that the guarantees of life and dignity cannot be restricted only to citizens of the country. Instead these rights arise from the inherent worth of the human person. By recognising this principle the Court restored Article 21 to its broader constitutional meaning as a safeguard for human dignity rather than a privilege dependent upon political membership.⁷⁴

The significance of the judgment becomes even clearer when it is viewed in relation to the condition of stateless persons. The Court's reasoning emphasised that constitutional wrongs must be assessed by looking at the injury suffered rather than the formal identity of the person who has suffered it. In extending the protection of Article 21 to a non citizen the Court

⁷² Aishwarya Birla, *Statelessness as an Academic Concern: The Indian Supreme Court's Engagement with Citizenship Policy in In Re: Section 6A of the Citizenship Act, 1955*, 7 *Statelessness & Citizenship Rev.* 85 (2025).

⁷³ *Chairman, Railway Board v. Chandrima Das*, (2000) 2 S.C.C. 465.

⁷⁴ *Ibid.*, para 27 – 29.

implicitly acknowledged that the absence of nationality cannot operate as a justification for denying constitutional protection. The reasoning of the Court therefore reinforces the idea that dignity functions as a universal constitutional value. It cannot be diminished merely because an individual lacks citizenship. Through this interpretation the Constitution appears not as a document that privileges exclusion but as one that imposes restraint upon the exercise of State power.⁷⁵

When considered together these judicial decisions demonstrate a consistent effort by the courts to soften the rigidity of citizenship based distinctions through the language of human dignity. The judiciary has not attempted to construct a detailed doctrinal framework dealing specifically with statelessness. Nevertheless it has repeatedly ensured that the Constitution does not become an instrument through which individuals may be excluded from the protection of the law. In this way judicial engagement operates as an important counterbalance to legislative silence, preserving the constitutional promise that every person within the jurisdiction of the Republic remains entitled to the protection of basic human dignity.⁷⁶

CITIZENSHIP NORMS, EXCLUSIONARY PRACTICES, AND CONSTITUTIONAL MORALITY

I. The Ethical Foundations of Citizenship

Within the Indian constitutional structure citizenship cannot be understood merely as a formal legal status. It reflects the recognition by the State of a deeper political and moral relationship between the individual and the national community. Citizenship signifies inclusion within the sovereign order and enables participation in the civic and constitutional life of the nation. At the same time the legal construction of citizenship has often produced tensions with the moral values that the Constitution seeks to uphold. The Citizenship Act of 1955 and the amendments that followed illustrate this tension. While the statute aims to define and regulate membership within the State, the criteria it establishes inevitably determine who may claim the protections and privileges associated with belonging to the constitutional community.

Because of this significance the judiciary has often examined citizenship legislation through

⁷⁵ “Right to Life Encompasses Non-Refoulement: Indian High Court Advances Refugee Policy,” JURIST (2021).

⁷⁶ Barristery.in, Article 21 of the Indian Constitution – Protection for Citizens and Non-Citizens.

the lens of constitutional values. In *Gangadhar Yashwant Bhandare v. Erasmo Jesus De Sequiria*⁷⁷ the Court observed that citizenship involves both rights and responsibilities. It cannot be treated merely as an administrative classification created for bureaucratic convenience. Instead it represents the legal recognition of an individual's entitlement to participate in the life of the nation and to enjoy the protections guaranteed under the Constitution, particularly Articles 14 and 21.⁷⁸ The judgment therefore highlights that citizenship operates at the intersection of law and moral responsibility. It must be administered not only in accordance with statutory provisions but also with regard to the constitutional purpose that those provisions are meant to serve.

The philosophical significance of belonging to a political community was powerfully expressed by Hannah Arendt, who famously remarked that the tragedy of the rightless is not simply the loss of liberty or equality but the loss of membership in any community capable of guaranteeing those rights.⁷⁹ Her observation reflects the deeper problem faced by individuals who are deprived of citizenship or whose nationality remains uncertain.

This concern is particularly relevant in the Indian constitutional context. The Constitution was drafted in the aftermath of Partition, a historical moment marked by mass displacement and profound uncertainty regarding identity and belonging. The framers were therefore acutely aware of the human consequences that accompany the denial or withdrawal of citizenship. Citizenship was never intended to operate as a rigid instrument of exclusion detached from the lived realities of individuals. Rather it was conceived as a legal institution that would function within the broader framework of constitutional values. To reduce citizenship to a purely technical status would therefore diminish its true constitutional significance. The ethical structure of citizenship remains closely connected to the larger constitutional commitment to dignity, equality, and justice. These principles require the State to administer questions of belonging with fairness, restraint, and sensitivity to human consequences.⁸⁰

II. Judicial Intervention in Exclusionary Practices

The Indian judiciary has frequently acted as an important safeguard against arbitrary exclusion

⁷⁷ *Gangadhar Yashwant Bhandare v. Erasmo Jesus De Sequiria*, (1975) 1 SCC 544.

⁷⁸ *Ibid.*, para 22 – 23.

⁷⁹ Hannah Arendt, *The Origins of Totalitarianism* 296 (1951).

⁸⁰ UN High Commissioner for Refugees, *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality*, U.N. Doc. HCR/GS/20/05, 16–20 (2020).

in matters relating to citizenship. Where legislative frameworks or administrative practices have tended toward rigidity the courts have intervened to ensure that constitutional values remain central to the process of determining membership within the State. This judicial role becomes especially significant in situations where the denial or withdrawal of citizenship threatens to push individuals into conditions of uncertainty and marginalisation.

In *Prabhleen Kaur v. Union of India*⁸¹ the Delhi High Court considered a situation in which the citizenship status of the petitioner was questioned during the process of obtaining a passport. The Court emphasised that citizenship cannot be denied on the basis of mere suspicion or administrative doubt. In paragraph 10 of its order the Court observed:

*“...In the circumstances, it is apparent that the petitioner cannot be denied a passport unless some concrete evidence is available with the respondents which can raise any doubts regarding the citizenship of the petitioner’s mother. A passport is a document evidencing a citizen’s nationality and cannot be ignored on mere suspicions...”*⁸²

The Court recognised that the consequences of denying citizenship recognition extend far beyond administrative inconvenience. Such decisions can affect an individual’s dignity, autonomy, and ability to participate in social life. Justice Vibhu Bakhru therefore concluded:

*“...In view of the aforesaid and in the given facts of this case this Court has little doubt that the denial of passport to the petitioner is manifestly unfair and unjust. This is a fit case for issuance of a mandamus directing the respondents to provide the passport facilities to the petitioner without questioning her nationality...”*⁸³

A similar concern is visible in *Ramesh Chennamaneni v. Union of India*⁸⁴, where the Telangana High Court rejected the idea that the absence of documentary proof alone could justify denying citizenship recognition to an individual whose civic identity had been long established. The Court recognised that administrative errors, historical circumstances, and the complexities of governance often affect the availability of official documentation. Citizenship determinations must therefore take into account the broader factual context rather than relying solely upon rigid documentary requirements. To insist otherwise would elevate procedure

⁸¹ *Prabhleen Kaur v. Union of India*, W.P. (C) No. 9159 of 2018 (Del. HC).

⁸² *Ibid.*, para 10.

⁸³ *Ibid.*, para 39.

⁸⁴ *Ramesh Chennamaneni v. Union of India*, 2019 SCC OnLine TS 1470.

above the human realities that the law is meant to regulate.⁸⁵

Taken together these decisions reveal a clear judicial awareness that exclusionary citizenship practices can easily produce injustice if they are applied without sensitivity to constitutional values. Judicial intervention therefore plays an important role in restoring balance. It ensures that the authority to determine citizenship is exercised with fairness, caution, and a sense of moral responsibility.⁸⁶

III. Citizenship and Constitutional Morality

The idea of constitutional morality provides an important framework for understanding the limits of State power in matters of citizenship. The Supreme Court elaborated this concept in *Kesavananda Bharati v. State of Kerala*⁸⁷, where it emphasised that the Constitution embodies a set of enduring values that cannot be undermined even through formal legal processes. In paragraph 690 the Court observed:

*“...Our Constitution is not a mere political document. It is essentially a social document. It is based on a social philosophy... Likewise a Constitution like ours contains certain features which are so essential that they cannot be changed or destroyed. In other words one cannot legally use the Constitution to destroy itself...”*⁸⁸

When applied to citizenship law this principle acquires particular significance. Decisions regarding who belongs to the political community do not merely determine legal status. They also shape the conditions under which individuals live, work, and participate in society. In *Kesavananda Bharati* the Court affirmed that the Constitution represents a moral vision that cannot be subordinated to temporary political considerations. This vision imposes limits upon the manner in which the State may define or restrict membership within the national community.⁸⁹

If citizenship regimes disregard constitutional morality they risk transforming legal authority into a mechanism of exclusion. The denial of legal status without adequate moral justification can effectively push individuals to the margins of the legal order. Constitutional morality

⁸⁵ Ibid., para 48 – 50.

⁸⁶ B.S. Chimni, Legitimizing the International Refugee Regime, 11 J. Refugee Stud. 351, 362–65 (1998).

⁸⁷ *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.

⁸⁸ Ibid., para 690.

⁸⁹ Ibid., para 292 – 297.

therefore functions as an important corrective principle. It requires the State to administer citizenship laws in a manner consistent with the Constitution's deeper commitment to dignity and justice. In this way citizenship becomes not merely a mechanism for regulating entry into the political community but also a site at which the legitimacy of State power is continually measured against the enduring promise of equality and dignity for all persons within the Republic.^{90 91}

REIMAGINING CONSTITUTIONAL PROTECTION BEYOND FORMAL CITIZENSHIP

Within the wider discourse of constitutional governance, it becomes increasingly apparent that the Indian Constitution does not confine the idea of protection exclusively to those who possess the formal status of citizenship. Article 21, despite its concise textual formulation, embodies one of the most expansive guarantees within the constitutional framework. Its language transcends the narrow confines of legal classification and reflects a deeper normative commitment to the preservation of human dignity, liberty, and personal security. The constitutional promise of life and personal liberty is therefore not merely an administrative entitlement dependent upon documentary recognition; rather, it represents an affirmation of the intrinsic worth of every individual who falls within the territorial jurisdiction of the Republic.⁹²

This constitutional understanding assumes particular significance in the context of statelessness, where individuals frequently exist in conditions of legal ambiguity and institutional vulnerability. Stateless persons often inhabit a precarious space between legality and exclusion. They may reside within the territory of a State for years, and sometimes generations, yet remain deprived of formal recognition, access to education, healthcare, employment, housing, or legal remedies. In practical terms, the absence of recognised nationality transforms ordinary existence into a condition of perpetual uncertainty. Consequently, statelessness cannot be understood merely as a technical deficiency within nationality law; it constitutes a direct challenge to the constitutional promise of dignity,

⁹⁰ International Law Commission, Draft Articles on Nationality of Natural Persons in Relation to the Succession of States, with commentaries, 1999 Y.B. Int'l L. Comm'n, vol. II, pt. 2, at 23–26.

⁹¹ Vinayak Tiwari, Citizenship in India: Special Reference to Recent Developments in Citizenship Laws, 4(2) Int'l J. L. Mgmt & Humanities 169 (2021).

⁹² Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

fairness, and equal protection.⁹³

Such an interpretation prevents the reduction of constitutional rights into privileges distributed through administrative convenience. Instead, it recognises rights as fundamental attributes of human existence which cannot be extinguished merely because an individual lacks documentary recognition. The Constitution, in this sense, performs a role extending beyond the regulation of legal relations between the State and its citizens. It also articulates a deeper moral compact between public authority and human vulnerability. The exercise of State power therefore carries with it a constitutional obligation to ensure that individuals who fall within its reach are not deprived of the minimum conditions necessary for a dignified existence.⁹⁴

The practical implications of this constitutional vision are of considerable importance. Administrative systems in modern States operate predominantly through documentation, databases, identity verification procedures, and formal records. Yet the lived realities of poverty, displacement, migration, illiteracy, natural disasters, and historical marginalisation frequently deprive vulnerable communities of access to such documentation. Rural populations, internally displaced persons, migrant labourers, abandoned children, and individuals residing in border regions often face severe evidentiary difficulties despite possessing longstanding and genuine connections with the country. In such circumstances, rigid insistence upon documentary proof risks transforming constitutional governance into an instrument of exclusion rather than protection.

A humane constitutional order must therefore adopt practical mechanisms capable of reconciling administrative necessity with substantive justice. One significant reform would involve the establishment of specialised citizenship review authorities functioning under judicial supervision and constitutional safeguards. These institutions should not operate merely as bureaucratic tribunals concerned with technical compliance. Rather, they must function as independent adjudicatory bodies guided by principles of fairness, transparency, proportionality, and evidentiary flexibility. Alternative forms of proof, including local community testimony, school records, municipal registers, electoral participation, and familial associations, ought to be recognised where formal documentation is unavailable. Constitutional justice cannot permit the fate of vulnerable individuals to depend entirely upon fragile

⁹³ Ibid., para 7- 9.

⁹⁴ Pratik Dixit, Securing Citizenship for the Stateless, SSRN.

paperwork often lost through circumstances beyond their control.⁹⁵

Equally essential is the development of procedural protections against arbitrary detention and indefinite legal uncertainty. Stateless persons frequently encounter situations in which they are neither recognised as citizens nor capable of deportation to another State. This results in prolonged insecurity where individuals remain trapped within administrative limbo without meaningful legal recourse. The constitutional guarantee of dignity requires the creation of time-bound review procedures, periodic judicial oversight, guaranteed legal aid, and accessible appellate mechanisms for persons subjected to citizenship-related proceedings. Administrative convenience cannot become a justification for indefinite exclusion or uncertainty.⁹⁶

The State must also recognise that documentation in contemporary society determines access to the ordinary conditions of human existence. Identity papers frequently function as gateways to healthcare, education, banking facilities, employment opportunities, housing, and welfare schemes. Their denial therefore produces not merely administrative hardship but a gradual erosion of substantive liberty itself. Constitutional governance consequently demands inclusive documentation policies, mobile registration mechanisms in remote regions, multilingual assistance centres, and simplified verification procedures for economically and socially vulnerable communities. Governance must proceed not solely through suspicion and surveillance, but through inclusion and constitutional compassion.⁹⁷

Judicial interpretation has repeatedly reinforced this broader ethical foundation. In *Chairman, Railway Board v. Chandrima Das*⁹⁸, the Supreme Court affirmed that the protection of human dignity under Article 21 extends even to non-citizens. The Court recognised that constitutional guarantees derive their legitimacy not from nationality alone but from the recognition of shared humanity. This reasoning reflects a jurisprudential movement away from rigid citizenship-centred constitutionalism towards a more humane conception of rights grounded in dignity, fairness, and protection against arbitrary State action.⁹⁹

From this evolving line of constitutional jurisprudence, several significant principles emerge, each contributing to a broader vision of constitutional protection that extends beyond the rigid

⁹⁵ *Chairman, Railway Board & Ors. v. Mrs. Chandrima Das & Ors.*, (2000) 2 SCC 465.

⁹⁶ *Ibid.*, para 30 – 32.

⁹⁷ S.P. Sathe, *Judicial Activism in India: Transgressing Borders and Enforcing Limits* 208–12 (2d ed. 2003).

⁹⁸ *Chairman, Railway Board & Ors. v. Mrs. Chandrima Das & Ors.*, (2000) 2 SCC 465.

⁹⁹ *The Human Rights of Stateless Persons*, University of Minnesota.

confines of nationality.

a) Presence over documentation

The first principle establishes that the mere presence of an individual within the territorial jurisdiction of the State is sufficient to attract constitutional concern. The obligations of governance arise not from paperwork alone but from the existence of human life within the reach of State authority. Law, in its highest constitutional sense, must serve human existence rather than reduce dignity to procedural compliance. This principle therefore requires authorities to adopt evidentiary standards that remain sensitive to social realities rather than mechanically dependent upon formal documentation alone.

b) Ethical universality

The second principle concerns the universal character of constitutional rights. Fundamental rights derive their legitimacy from the recognition of inherent human dignity rather than technical classifications of nationality. When rights are understood in this manner, they cease to appear as administrative privileges granted at the discretion of institutions. Instead, they emerge as acknowledgements of the intrinsic worth of every human being irrespective of legal status. This principle further requires constitutional governance to ensure that vulnerable populations are not excluded from essential services merely because they lack formal recognition.

c) Judicial interpretation as constitutional guidance

Judicial interpretation performs a vital constitutional function by translating ethical commitments into enforceable protections. Courts do not merely interpret statutory language; they articulate the moral foundations that give constitutional guarantees their substantive meaning. Through purposive interpretation, the judiciary acts as the institutional conscience of the Constitution, ensuring that silent constitutional principles are transformed into operative safeguards. Particularly in matters involving statelessness, judicial intervention becomes indispensable in preventing arbitrary exercises of executive power and protecting vulnerable individuals from legal invisibility.

d) Preventive responsibility of the State

Another principle emerging from constitutional jurisprudence concerns the preventive

obligations of the State. Constitutional governance cannot remain reactive by intervening only after exclusion has already occurred. Rather, the State bears a positive responsibility to design administrative systems that minimise the possibility of wrongful exclusion in the first instance. Transparent procedures, accessible grievance mechanisms, publicly available guidelines, periodic review processes, and legal aid services are therefore essential components of a humane constitutional order. Administrative structures must function not as barriers to rights, but as mechanisms facilitating constitutional inclusion.

e) Harmony between policy and constitutional values

Finally, legislative and executive policies concerning citizenship, migration, and identity documentation must remain in harmony with the ethical foundations of the Constitution. National security and sovereign regulation undoubtedly constitute legitimate State interests. However, such objectives cannot be pursued through measures that extinguish dignity or undermine the principles of fairness and non-arbitrariness. Constitutional morality requires that policies relating to citizenship and identity operate in a manner that strengthens human protection rather than institutional exclusion. The legitimacy of constitutional governance ultimately depends not merely upon the regulation of borders, but upon the humanity with which the State treats those who exist at the margins of legal recognition.¹⁰⁰

This reimagining of constitutional protection cannot remain confined to judicial pronouncements alone. It imposes a continuing obligation upon the State to develop legal and administrative frameworks that reduce exclusion and minimise arbitrariness. Although legal recognition remains important for effective governance, it cannot be treated as the sole condition for the enjoyment of constitutional guarantees. Rather, it must function as a mechanism through which the ethical spirit of the Constitution is realised in practice. By adopting such an approach, constitutional governance becomes guided not merely by procedural legality but also by justice, compassion, and substantive humanity.¹⁰¹

Viewed in this light, the Constitution emerges not as a narrow legal instrument confined to technical classifications, but as a living moral charter committed to the preservation of human dignity. Citizenship undoubtedly retains significance as a marker of political membership and

¹⁰⁰ The Stateless Within: Citizenship, Exclusion and the Internal Borders of India's Refugee Regime, Refugee Law Initiative Blog.

¹⁰¹ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* 50–55 (Oxford Univ. Press 1966).

civic participation.

CONCLUSION

The examination of statelessness within the Indian constitutional framework reveals a significant tension between the written text of the Constitution and the lived experiences of individuals who exist outside formal legal recognition. Yet it is within this very silence that the deeper moral character of the Constitution becomes visible. Where legislative provisions remain limited or uncertain, the expansive interpretation of Article 21 has emerged as a guiding principle that ensures that the dignity of the individual is neither ignored nor postponed.¹⁰²

The movement from constitutional silence to constitutional conscience therefore represents an important ethical development within Indian constitutional jurisprudence. It requires courts, legislators, and administrators to consider not only the literal commands of the law but also the broader demands of justice. Edmund Burke once observed that justice forms the enduring foundation of civil society.¹⁰³ This observation finds resonance in Indian constitutional practice where courts have interpreted fundamental rights in a manner that protects individuals who might otherwise remain unrecognised within the formal structure of law.

Judicial reasoning has repeatedly affirmed that the protection of fundamental rights does not depend entirely upon formal citizenship or documentary evidence. Instead it arises from the intrinsic worth of the human person. In *Chairman, Railway Board v. Chandrima Das*¹⁰⁴ the Supreme Court emphasised that the obligations of the State arise from the presence and vulnerability of individuals rather than from their formal legal status. By recognising this principle the Court translated a moral idea into a constitutional rule capable of protecting those who exist beyond traditional categories of citizenship.¹⁰⁵

This constitutional approach also resonates with the broader ideals that shape international understandings of human rights. Societies that recognise the dignity and potential of every individual strengthen the foundations of justice and social harmony. As Victor Hugo once suggested, the expansion of opportunity and recognition is among the most effective means of

¹⁰² *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, para 5–7.

¹⁰³ Edmund Burke, *Thoughts on the Cause of the Present Discontents* 55 (London, J. Dodsley 1770).

¹⁰⁴ *Chairman, Railway Board & Ors. v. Mrs. Chandrima Das & Ors.*, (2000) 2 SCC 465 (India).

¹⁰⁵ *Ibid.*, para 30 – 32.

building a humane and stable society.¹⁰⁶ In this sense the Constitution operates not as a static legal instrument but as a living framework capable of shaping the conditions in which human life may flourish.¹⁰⁷

When the silences of the Constitution are interpreted with moral awareness they become invitations for creative and responsible governance. They call upon the State to design laws and administrative practices that anticipate human vulnerability rather than merely respond to formal claims. Such an approach ensures that no individual is rendered invisible within the legal order and that the absence of documentation does not translate into the loss of dignity or protection. In fulfilling this responsibility the State performs its most fundamental function, which is not only to regulate society but also to preserve the conditions in which every individual may live with security, freedom, and respect.¹⁰⁸

Ultimately the responsibility of constitutional institutions is to ensure that silence never becomes indifference. Instead it must serve as a reminder that law exists to protect human dignity in all circumstances. Daniel Webster once described justice as the central concern of human society.¹⁰⁹ It is through this continuing pursuit of justice that the Constitution realises its highest purpose. By harmonising legality with moral responsibility the Republic affirms that its deepest allegiance lies not merely with formal rules but with the enduring dignity of every human being.¹¹⁰

¹⁰⁶ Victor Hugo, *Les Misérables* 123 (1870) (transl. by Charles E. Wilbour, Modern Library 1994).

¹⁰⁷ Aakash Chandran, *Statelessness, Detention Centres and the Otherization of the “Illegal Migrant”*, 3(1) *Statelessness & Citizenship Rev.* 258 (2021).

¹⁰⁸ Manav Kapur, *India’s Citizenship (Amendment) Act: A Throwback to Debates Around the “Long Partition”*, 3(1) *Statelessness & Citizenship Rev.* 207 (2021).

¹⁰⁹ Daniel Webster, *Speech on the Repeal of the Missouri Compromise*, in *The Works of Daniel Webster*, vol. 7, 182 (Boston, Little, Brown & Co. 1903).

¹¹⁰ Hannah Arendt, *The Decline of the Nation-State and the End of the Rights of Man*, in *The Origins of Totalitarianism* 267–302 (Harcourt, Brace & Co. 1951).