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## BEYOND THE PROCEDURE: THE BIRTH OF ARTICLE 21 AND ITS EVOLUTION

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*All human beings are born free and equal in dignity and rights...*

- Eleanor Roosevelt

### ABSTRACT

The citizens of India get the fundamental Right to Life and Personal Liberty from Article 21 of the Constitution of India. This is one of the most important rights enshrined in the Constitution of India. The Supreme Court is majorly seen as the protector of the fundamental rights. The Supreme Court and High Courts are empowered under Article 32 and 226 respectively to look into the cases where the fundamental rights are being violated. Article 21 has undergone significant transition from narrow interpretation of the phrase, 'procedure established by law' in the A.K. Gopalan case (1950) to its widest interpretation in the Maneka Gandhi case (1978), giving a new view to look at Article 21.

This paper studies the legislature debate regarding the thoughts and amendments before adopting Article 21 in the Constitution of India. Further, it studies how through landmark judgements Article 21 has evolved with time and rising issues. It studies, how judiciary interpreted the article and added various essential elements of life, i.e., right to live with human dignity, against sexual harassment at workplace, privacy, clean environment, right to sleep and to die with dignity.

**Keywords:** Constitution of India, Article 21, Right to life and personal liberty, Fundamental rights, Elements.

## **Introduction**

Fundamental Rights are deemed essential to protect the rights and liberties of the people against the encroachment of the power delegated by them to their government. These rights are regarded as fundamental because they play a vital role in the development of individual, from their intellectual to moral to spiritual status. These Fundamental Rights ensures that every citizen enjoys their freedom with reasonable restrictions. These rights involve, right to equality, freedom of speech, freedom of faith and so on. The list of fundamental rights available is long and is found in Part III of the Indian Constitution. This Chapter of the Indian Constitution is described as the Magna Carta of India.

Among all the fundamental rights that are guaranteed in the Constitution of India, Article 21 said to be the heart of the Constitution of India, the most organic and progressive article in the Constitution of India. It is read as, “No person shall be deprived of his life and personal liberty except according to procedure established by law”. This right to guaranteed to a citizen as well as to non-citizen. Earlier, this article was interpreted in a narrow way but has been evolved with the growing judicial activism and development happening regarding rights. This has resulted to including a lot of other elements under this article.

## **Birth of Article 21**

Article 21 of the Constitution of India, guarantees protection of life and liberty to every person. It is interesting to study about the legislative debate during its formation and how Article 21 actually took a shape.

Sir Benegal Narsing Rau, a constitutional advisor and world-renowned constitutional scholar, was responsible to collect all the proposals and reports presented in the House and making the draft of the Constitution. A drafting committee was formed who was responsible to scrutinize the draft submitted by Sir Benegal Narsing Rau. The committee consisted of, Dr. B.R. Ambedkar (Chairman), Alladi Krishnaswami Ayyar, N. Gopaldaswami Ayyangar, K.M. Munshi, Sayid Mohammad Sadulla, B.L. Mitter, D.P. Khaitan.

A committee was already formed by the Constituent Assembly much before the partition and independence to decide framing and enforcement which fundamental rights. This sub-committee for framing and enforcement of fundamental rights, consisted of, Acharya J.B.

Kripalani (Chairman), Alladi Krishnaswami Ayyar, K.M. Munshi, Prof. K.T. Shah, Dr. B.R. Ambedkar, Rajkumari Amrit Kaur, Shrimati Hansa Mehta and Sir Benegal Narsing Rau. In their discussion, K.T. Shah and Dr. B.R. Ambedkar had made notes regarding what rights must be included. Further, Alladi Krishnaswami Ayyar suggested taking Constitution of United States of America as a model for protecting the fundamental rights. This sub-committee drafted and collected various reports and notes prepared by B.N. Rau and K.T. Shah. After all the discussion, a final report was made and submitted to the advisory committee. The report consisted of 45 articles each dealing with fundamental rights and these recommendations were adopted by Advisory Committee. This report was further submitted in the Constituent Assembly for discussion and adoption in the Constitution of India.

The discussion was all about what is to be added or what is to be amended further before adding it into the Constitution. During this discussion, Article 21 was referred as Article 15 in the draft. The draft that was submitted by K.M. Munshi, provided, 'No person shall be deprived of his life, liberty or property, without the due process of law.' During this discussion it was suggested of deleting the word 'due process of law' drawn from Constitution of United States and replaced it with 'procedure established by law' drawn from Constitution of Japan. It was remarked by Alladi Krishnaswami Ayyar that the interpretation of phrase 'due process of law' will give rise to uncertainty. As the phrase itself was adopted from the Constitutional law of United State which in itself has a vast history of interpretation by changing judges. The phrase itself has a diverse interpretation, one inclining towards social utility and the other in the direction of individual property. Since the phrase itself do not have any common interpretation, the Indian courts would follow the same expression'. Further, Gobind Pant stated that he is against this phrase as it could not be used because it is ambiguous and can be interpreted differently. Majority of the members were in the support of incorporating the phrase, 'due process of law' as it can give judiciary more power to examine whether the law is fair and reasonable, but at the same time it also raised concerns that giving judiciary such power can lead to interfere in the legislative work. This concerns led to adoption of the phrase, 'procedure established by law'. Even though the decision of adding the phrase 'procedure established by law' was supported by a majority of the members, still there were a few members who were unhappy with it. Further, it also resulted in a great public criticism. It was felt that Article 15 has given power to Parliament to arrest any person under any circumstances as it fit. This gave rise to drafting a new article i.e. Article 15A with certain amendments and was passed too which now stands as Article 22 of the Constitution of India. In this way, Article 15 became

Article 21 in the final Constitution that was adopted.

The Supreme Court for the first time interpreted Article 21 in the case of *A.K. Gopalan vs State of Madras*. Thereafter, there were various cases in which Article 21 was interpreted according to the facts and issues of the respective cases. These cases only led to the growth and amendment of Article 21 with the changing time.

### **Era of Narrow Judicial Interpretation**

It is observed that Article 21 was first interpreted in a narrow sense by the Supreme Court in ***A.K. Gopalan v. Union of India AIR 1950 SC 27***.

The judgement upheld in the case *A.K. Gopalan vs Union of India* laid the foundation for the interpretation of fundamental rights through Supreme Court case. In *A.K. Gopalan vs Union of India*, the Petitioner A. K. Gopalan was detained under the **Preventive Detention Act, 1950**. The Petitioner questioned the validity of the Act on the grounds that his detention violates the provisions of the Articles 13, 19, 21 and 22.

The following are the interpretations relevant to Article 21:

- It held, the phrase ‘procedure established by law’ must not be understood as ‘due process of law’. The root of ‘due process of law’ is found in Fifth and Fourteenth Amendment of the American Constitution which means, an assurance that all levels of government will operate within the law and provide fair procedures. But procedure established by law means, law enacted by the legislature.
- The word ‘procedure’ is any prescribed method or manner of proceeding that should be followed before an individual is deprived of life or personal liberty. This procedure must be established by law.
- The phrase ‘established by law’ means, a state-made law. It does not involve the idea of natural justice and thus a procedure is valid only if it is established by law.
- Article 21 is guaranteed to citizen against the arbitrary action of the executive and not that of legislative. If any law that deprives an individual to his life and liberty is valid, if the law is laid down by the parliament. The only essential to check the validity of law

was: -

1. The law must be enacted by the legislature validly.
  2. It must lay down a procedure.
  3. The procedure must be followed by the executive before depriving an individual from his life and liberty.
- The Supreme Court with a majority held that ‘personal liberty’ only meant the liberty of the physical body, that is freedom from arrest and detention without the authority of law and it does not include freedoms that are cover under Article 19.
  - It further stated that Article 19 and 21 must be treated separately.

The way in which Article 21 was interpreted here, it can be said that it created restrictions only on executive to not act without a law. It turned to be ineffective when it was legislative power and they could enact any law on personal liberty without any obligation to prescribe any reasonable procedure for the same.

The interpretation of Article 21 that took place in A.K. Gopalan case clearly shows that no protection is available to citizen against harsh law, especially when they are deprived of their life and personal liberty. This interpretation acted as an inducement/ need in transforming the judicial approach towards Article 21.

**Kharak Singh v. State of Uttar Pradesh AIR 1963 SC 1295**, was the first case wherein the Court recognised the Right to Privacy in any form. Kharak Singh was tried in 1941 under the charge of dacoity but had been release ed due to lack of evidence. However, the U.P police under the U.P. Police Regulations had opened a history sheet of him and had kept him under surveillance. This surveillance included like, picketing of his house, domiciliary visit to his home at night, and verifying his movement and actions. During this surveillance, the police went to the extent of waking him up and taking him to police station to check his identity or to bang his door at midnight to confirm whether he is in the house or has gone somewhere without informing. The police carried all this acts under the excuse that it is valid under **U.P Police Regulations**. These acts of police disturbed his day-to- day life and so, Kharak Singh filed a Writ Petition and challenged the constitutional validity of Chapter 20 under U.P. Police

Regulation as it violates his fundamental rights under Article 19 (1) (d) and 21 that is guaranteed under Constitution of India.

The Supreme Court held that, the domiciliary visits done by U.P. police was an invasion to the personal liberty of Kharak Singh. The term 'life' meant more than a mere animal existence. But the claim of Kharak Singh of his right to privacy was violated, to this the Court held that right to privacy is not explicitly mentioned or guaranteed under Article 21. Hence, it does infringe his fundamental rights. However, Justice Subba Rao in his dissent, argued that Right to Privacy is an essential of personal liberty and hence, it is a fundamental right. This view, was later upheld in **K.S. Puttaswamy vs Union of India AIR 2015 SC 3081**.

**A.D.M. Jabalpur vs. Shivkant Shukla 176 2 SCC 521**, also know has habeas corpus case. This case took place when emergency was declared by the then Prime Minister Indira Gandhi. During 1975-1977, a national emergency was declared with a reason of 'internal disturbance', but the main reason was to keep power intact. This was because the Allahabad High Court declared the 1971 Lok Sabha election as invalid. This enraged the citizens of India and massive protest took place that demanded Indira Gandhi to resign from the position of Prime Minister. The declaration of this emergency resulted into suspension of Article 19 and under Article 359 of the Presidential order, right to move court to enforce Article 14, 21 and 22 was suspended. This suspension of rights led to detention of politician, journalist and activists under **Maintenance of Internal Security Act (MISA)**. The individual who was illegally detained filed petitions in different High Courts and argued that although fundamentals rights are suspended, the State has no authority to detain us illegally. In response to this petitions, various High Courts agreed and reasoned that Article 21 protects each individual against illegal detention. The government appealed to the Supreme Court clubbing all the petitions which were filed. The main issue that was put forth in this case was whether any individual has any locus standi to challenge illegal detention especially when Article 21 and right to move in court is suspended in situations like emergency.

The Supreme Court held that when Article 21 is suspended and the right to move to a court to enforce 3s right is suspended by the Presidential Order under Article 359, then no individual has any locus standi to file a writ petition for challenging the legality of the detention. However, in the dissent opinion of Justice H.R. Khanna, he stated that although right to approach to court to enforce the fundamental rights gets suspended under Article 359 (1) but it must not suspend

the statutory rights. The State has no power to deprive an individual of his right to life and personal liberty i.e. Article 21 without following procedure established by law. In emergency, Article 21 can lose its procedural power but it must not lose its substantive power. He invoked the idea of natural rights stating that there are few rights that go beyond the Constitution and therefore must not be suspended even during an emergency. This case has led to the introduction of the 44<sup>th</sup> Amendment Act which aimed to amend and remove provisions from the Constitution that were added by the 42<sup>nd</sup> Amendment Act. The 44<sup>th</sup> Amendment Act, safeguarded Article 21 and 20 not to be suspended during an emergency. It strengthened the fundamental rights during emergency and maintained the balance of power among the State and citizens.

### **Maneka Gandhi Era: The Wide Judicial Interpretation**

The scenario of narrow interpretation ended with the landmark case, **Maneka Gandhi v. Union of India (1978) 1 SCC 248**. The decision in this case gave a more expansive and liberal interpretation of Article 21.

Maneka Gandhi was a journalist and a political activist. Her passport was issued under the Passports Acts, 1967. On 2<sup>nd</sup> July 1977, she received a letter from the Regional Passport Office of Delhi ordering her to surrender her passport by the Government of India, under the section 10(3)(c) of Passports Acts, 1967. When she asked why was she asked to surrender her passport, the Government just gave the reason that it is being done 'in the interest of the general public' and no exact reason was given. She was not given an opportunity to be heard before and after her passport was taken away. Hence, she approached the Supreme Court of India and filed a Writ Petition under Article 32 of the Constitution of India. In this Writ Petition she challenged the arbitrary action and stated that this violated her fundamental right that are guaranteed under Article 14, 19 and 21.

The judgement given in this case changed the whole interpretation or the view in which Article 21 was looked upon. It gave a widest possible interpretation of the word 'personal liberty'. It held that Article 21 covers more rights under it, such as right to go abroad, right to privacy, right to health and medical assistance, right to sleep, etc. are part of personal liberty. It also gave a new meaning to the word 'life' that not only meant mere animal existence but to live with human dignity.

In the A.K. Gopalan case, the Supreme Court held that Article 19 and Article 21 must be treated separately and not together. Further, Article 19 deals with only certain important individual rights of personal liberty and certain restrictions that can be imposed upon the available rights. On the other hand, Article 21 prevents the State from depriving the individual of their life and personal liberty except procedure established by law. This view was overruled by the Supreme Court in the case of Maneka Gandhi case and held that Article 21 is controlled by Article 19, by which it meant, all requirements of Article 19 must be fulfilled. The Court held that Article 14, 19 and 21 of Constitution of India are mutually inclusive. These three Articles together are interconnected and form “**golden triangle**”, which acts as a shield against arbitrariness. Any law passed must pass the test of equality, reasonableness, and fairness under Article 14, 19 and 21.

Another point that gains more clarity was ‘procedure established by law’ and ‘due process of law’. In Gopalan’s case, Supreme Court rejected the idea of understanding procedure established law as due process of law that was interpreted in America. The court held that procedure established by law only meant procedure prescribed by the law of the State. In Maneka Gandhi case, the Supreme Court overruled this decision and held that a mere prescribed procedure by law by the State is not enough to satisfy the mandate of Article 21. The procedure that is prescribed by law must be fair, reasonable and not arbitrary, and if any of these is absent then it will be not a procedure at all, as it fails to satisfy the requirements of Article 21. The procedure prescribed must be fair or just and it must embody the principle of natural justice. In this the natural justice was accepted as an essential component of law.

## **Post-Maneka Gandhi Era**

### **Right to live with human dignity**

It was held by the Supreme Court in Maneka Gandhi case, that Right to Live does not include only a mere physical right but also includes Right to live with human dignity. This view was elaborated further in, **Francis Coralie v. Administrator, Union Territory of Delhi (1981) 1 SCC 608**. This judgement gave a broader interpretation to right of life stating it also includes right to live with human dignity. It also stated the facilities that includes under this right, such as reading, expressing oneself, writing and getting engaged in human interaction. The Court further observed that its contents of rights may differ from country to country based on their economic development but the core of human dignity must always be preserved. It further laid

down an important principle that prisoner or detenu does not lose their fundamental rights just because they are in prison. They enjoy their fundamental and legal rights with reasonable restrictions. If any individual experiences torture or inhuman treatment or degradation, it is offensive against human dignity and any procedure or law authorising such type of treatments is unconstitutional.

**Babdhua Mukti Morcha vs Union of India (1984) 3 SCC 161** was another case where the Right to Live with Human Dignity was highlighted in its judgment. In this case, Badhua Mukti Morcha, an NGO sent a letter to the Supreme Court of India (which was treated as a Writ Petition by the Court) describing the inhuman conditions in which the quarry workers were living just because they were indebted to the contractors or the middleman. It was held that the minimum requirements such as basic humane working conditions, health care, education and shelter are to be provided to the persons belonging to the weaker sections of the community thus investing their right to live with basic human dignity. Neither the Central nor the State Government have right to take any action that would deprive a person from enjoying the basic essentials. The Court directed the State of Haryana to identify, release and rehabilitate the bonded workers and ensure the enforcement of the labour laws. It was also held that if the State does not take necessary steps, it would further lead to denial of protection under Article 21. The Court's decision in this case expanded the scope of fundamental rights as the Bonded Labour System (Abolition) Act, 1976 was enacted pursuant to the DPSP with a view to ensure basic human dignity to the bonded labourers and if the State fails, it would amount to violation of Article 21 (and also Article 23).

### **Right against sexual harassment at work place**

Gender equality is a basic human right and the one that it is universally recognized by many international conventions. It is observed over a period of time; women have always experienced sexual harassment at work place which reduces the quality of working life and well-being of women. Sexual harassment includes actions that takes place directly or indirectly such as, showing pornography, making sexual remarks, unwelcome physical touches, demand or a request for sexual favours, insults based on the sex of workers, etc. It is responsibility of the State government to ensure to make rules and regulations that protects workers of any sex from experiencing sexual harassment at work place.

In the case of **Visakha v. State of Rajasthan (1997) 6 SCC 241**, the need for a legislation

providing to prevent it was bought before the Supreme Court. Bhanwari Devi, a rural woman, raised her voice against culture of child marriage and consequently, and she was brutally gangraped by five men in September 1992. It was a horrifying act against a social activist in the State of Rajasthan as it had happened with a woman who was performing her duties during the course of her employment. While the case was being heard at the Trial Court, the accused were acquitted due to a lack of evidence. Their acquittal was a denial of justice to her. Even after all this, she was determined to fight to get herself the justice and also against the social evil.

Various women's rights activists and NGOs launched a campaign for justice. An NGO named Vishaka, filed a Writ Petition as a class action before Supreme Court for enforcement of Fundamental Rights of working women, mainly Articles 14, 15, 19, and 21 of the Constitution of India. At the same time, the issue of the need for the protection of women from sexual harassment at workplace was also raised.

The ruling of this case is considered as a significant ruling as the Supreme Court framed the guidelines to protect women from the acts of sexual harassment at the workplace, known as the 'Vishaka Guidelines'. The guidelines framed herein were to be treated as law declared under Article 141 of the Constitution. These guidelines were the foundation for the first statutory law in India. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, the POSH Act was enacted for the prevention and redressal of complaints of sexual harassment at workplace. The Vishaka case has helped many women to seek justice against the acts of sexual harassment faced by them at the workplace.

### **Right to sleep**

Every individual need rest and to regain energy, sleep is an important aspect. Sleep helps to release stress and acts as a mechanism to repair the body. It is the basic necessity of human body. Sleep plays an important role in balancing life and human existence. One needs to understand that though right to life is a fundamental right, it is not absolute and it comes with its own reasonable restrictions.

In **Ramlila Maidan v. Home Secretary, Union of India 2012 CR LJ 3516 (SC)**, the Ramlila Maidan was given on rent to carry out a yoga training camp but Baba Ramdev instead to teaching yoga decided to go on a hunger strike against the black money. He held Anshan

Satyagraha therefore no yoga training could be taken the entire day as the crowd gathered was more than fifty thousand. The Government tried to negotiate with him but he did not consider it and therefore he was informed that his permission to hold the yoga camp was withdrawn and Section 144 of Cr. P.C. was imposed. The police with an attempt to disperse the gathering without any notice, at midnight made use of tear gas and lathi charge at the peaceful sleeping crowd. As a result of it, many individuals were injured which resulted into death of a women. As it was not notified, people were not aware where to go. In this, the Supreme Court took a Suo Moto cognizance of the matter. The Court held, sleep is an indispensable part of a healthy life and an essential requirement for maintaining peaceful life. It was held that the forceful evict of innocent people from sleep was violation of their fundamental right and was arbitrary and abuse of power. Justice Dr. B.S. Chauhan held that sleep is a necessity and not a luxury. If any individual is deprived of his sleep it results to both mental and physical torture. Right to privacy and Right to sleep have always been treated as a fundamental right just like right to breathe, to drink, to eat, etc.

In **Ram Kotumal Issrani v. Directorate of Enforcement and Ors**, the Petitioner was summoned by Enforcement Directorate (ED) under the Section 50 of Prevention of Money and Laundering Act,2002. The Petitioner complied with the direction and appear in ED office. When he reached the office, his personal liberty was curtailed and his actions were restricted. Just as he entered, he was surrounded by officers and was even followed to washroom. Despite him being medically unfit, he was kept awake for 20 hours and was not allowed to sleep. In this case, the Bombay High Court held that ED's practice of recording statement was wrong. It observed Right to sleep as a fundamental right and not providing it violates an individual's rights. The Court directed the ED to frame timings guidelines for recording statement under Section 50. The Court held that statements must be recorded in earthly hours and not in night when individual's cognitive skill may be impaired.

### **Right to Clean Environment**

For an individual to live a healthy life, one needs clean water, fresh and pure air to breathe and other basic necessities i.e. to lead a healthy life a clean environment is the need. Judiciary has recognized the Right to clean environment in many of its cases. In Maneka Gandhi case, the Supreme Court opined that under Article 21 the right to clean environment must be included.

In Doon Valley, located in hills of Mussoorie in Dehradun, residents were concerned regarding

lime stone mining. In the process of doing mining, it included the use of explosives, indiscriminate deforestation and excessive quarrying which resulted into ecological damage. The consequences of mining operations became evident in the 1980's. The valley that was once prosperous started experiencing floods, landslides, increasing temperature, water scarcity and fertility of land was destroyed. Rural Litigation and Entitlement Kendra filed a writ under Article 32 to the Supreme Court, saying that the mining activities are violation Article 21 and environmental laws.

In **Rural Litigation and Entitlement Kendra v. State of U.P. (1985) 2 SCC 395**, The Supreme Court appointed a committee named Bhargava Committee to inspect certain lime stone quarries. The Court ordered the closure of limestone quarrying on the ground that they were causing harm to the environment and are hazardous to the safety residents of the Doon Valley. It further mandated strict regulatory compliances.

This was the first case wherein, the Supreme Court recognized 'right to live in a clean environment' as a fundamental right under Article 21 of Constitution of India. The country also saw the first case where environment related issue and ecological balance concerns were involved.

In **M.C. Mehta v. Union of India (1987) 1 SCC 395**, the Shriram Food and Fertilizer, a subsidiary of Delhi Cloth Mills Ltd., operated multiple industrial units in a densely populated area of Delhi. These industries manufactured chemicals such as, caustic soda, chlorine, hydrochloric acid and sulphuric acid. The caustic chlorine plant was hazardous and possessed a threat to the life of the workers and residents in situation of a leak. M.C. Mehta filed a writ petition in the Supreme Court under Article 32 of the Indian Constitution, seeking for the closure of the Shriram industrial units. Subsequently, the happening of Bhopal Gas leak, there were concerns about Shriram plants being hazardous and need for inspection and recommendations for improvement was seen. During the pendency of the Petition, a leakage of Oleum Gas took place in of the unit, causing harm to the workers and residents of the area. The leaked gas adversely reacted with the water that was sprayed to neutralise the effect. This reaction resulted in creation of a toxic cloud that travelled nearly 10 kilometres. The people affected by it, started showing symptoms of nausea, choking and eye irritation. This also led to death of several peoples and hospitalisation of individuals affected by it. The Court directed the management to deposit amount of Rs.20 Lakhs as a security payment for the compensation

claims of the victim. The Court in its judgement expanded the scope of Article 21 stating that it is applicable to private corporations too, given that Shriram was not a state entity.

### **Right to Die with Dignity**

The judiciary through its various judgements always grappled whether to include Right to Die under Article 21 or not. An individual who is in a vegetative state is always in a dilemma of living and dying. It also becomes difficult for the family to take care of the individual who is in a vegetative state. at times it becomes difficult financially too. In India, euthanasia was never allowed but a debate about the Right to Die sparked in the case of *Aruna Shanbaug v. Union of India*. With the changing time judiciary is also changing its perspective and now, passive euthanasia is legally permitted in India. However, active euthanasia (administration of lethal substance) is still considered to be illegal and is punishable under *Bhartiya Nyaya Sanhita, 2023*.

Although, the judiciary did not officially declare or interpreted Right to Die as a fundamental right under Article 21 but in ***Aruna Ramachandra Shanbaug vs. Union of India AIR 2011 SC 1290***, it dealt with the issue of euthanasia. In this case, the Court granted passive euthanasia but it also laid certain guidelines to be followed. These guidelines ensures that it is not being misused. This case bought a shift in the concept of euthanasia in India and acted as its foundation.

In ***Common Cause v. Union of India (2018) AIR 2018 SC 1665***, the Common Cause (NGO), requested the court to make passive euthanasia legal. It further argued, just as every individual as Right to Life in the same manner every individual also has Right to Die with Dignity, especially if the individual is in coma or in a vegetative state. In such situation the individual is only living on medical support. This ruling acted as support to patients that are terminally ill or in a Persistent Vegetative State (PVS). This case laid guidelines which is known as 'Common Cause' guidelines. These guidelines have two basic principles, i.e., the intervention must qualify as medical treatment and the withdrawal must be in the best interest of the patient. This case officially recognized Right to Die with Dignity under Article 21.

Recently, in ***Harish Rana v. Union of India and Ors. (2026 INSC 222)***, the Supreme Court permitted passive euthanasia to Harish Rana who was in a vegetative state for 13 years. He was solely depending on Clinically Assisted Nutrition and Hydration (CANH) and no sign of

improvement was seen. It fully functioned the judgement of the Common Cause case and also gave the principle that CANH is a withdrawable medical treatment.

### **Right to Speedy Trial**

Right to Speedy Trial is an integral part of Article 21 after the historic ruling in *Hussainara Khatoon v. State of Bihar*. This right is not only for the accused person but also maintains citizens trust on the justice system. This further ensures that the accused is tried fairly and speedily, ensures justice to the victim and reduces mental agony to the accused, if he is innocent.

In ***Hussainara Khatoon v. State of Bihar AIR 1979 SC 2522***, a Writ Petition of Habeas Corpus under Article 32 was filed by an Advocate named Pushpa Hingorani, highlighting the injustice experienced by the prisoners and release of 17 under-trial prisoners. The Writ further showed that in Bihar jail how some prisoners were charged with minor offences and were being held in custody more than the prescribed punishment for an offence.

The Court, in this case, interpreted Article 21 in more broad sense and purposive way. It pronounced the list of the prisoners that was mentioned in the writ to be released along with personal sureties as it violated Article 21. The Court further ordered all the state High Courts to provide them with the list of all pending cases with reasons. Further it provided with the free legal aid to under trial- prisoners who are charged under bailable offence. The Court held that the detention must be fair, reasonable and just and if it fails to uphold these principles, then the detention will get terminated.

In ***Abdul Rehman Antuleet v. R.S. Nayak AIR 1992 SC 1701***, the Court laid down more detailed guidelines for speedy trial for the accused but denied to set any time limit for trial of offences. It held that Right to Speedy Trial comes under Article 21 and is available to every accused at each stage of investigation, inquiry, trial, appeal, revision and retrial. It also states that the accused cannot be denied speedy trial just because he did not demand for speedy trial. If the Court finds that the right to speedy trial of the accused is infringed, in that case the charges of conviction will be quashed. The nature of offence and quashing the charges must not be in the interest of justice. In such a situation, the Court may order a fix time under which the trial may take place, wherein it concludes and reduces the sentence.

**Right to privacy: Constitutional Milestone**

The Supreme Court in its landmark judgment in Justice **K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 126**, held that the Right to Privacy is protected as an intrinsic part of the Right to life and personal liberty under Article 21 and as a part of the freedoms guaranteed by Part III of the Constitution. In this case, a petition was filed by Justice K.S. Puttaswamy (Retd.) and Mr. Pravesh Khanna challenging the Aadhar Project. In Aadhar Project, the government issued card with a unique identity number to an individual. This project was challenged on the grounds of violation of fundamental rights under Article 21. A nine-judge bench gave a unanimous landmark ruling wherein 'privacy' is to be constitutionally protected. It further highlighted three key dimensions of the fundamental right to privacy – 1. intrusion with an individual's physical body, 2. informational privacy, and 3. privacy of choice. The Aadhaar Act created a database of all Indian residents and citizens and their information, which can affect every aspect of an individual's personal, professional, religious and social life. Such power is a threat to individual freedoms. However, it was also pointed out that that the Right to privacy would be subjected to reasonable restrictions which means that it is not an absolute right. It was held by the Court that the States do have the authority to impose reasonable restriction on the right to privacy so that the State interest is also protected. The bench in its judgement further laid down that in the context of Article 21, the proportionality test is to be applied while examining if a particular provision is 'just, fair and reasonable test' i.e. the State action would be subjected to the proportionality test. The decision given in the case of *M. P. Sharma v Satish Chandra, District Magistrate, Delhi (1954)* and *Kharak Singh v. State of U.P. & Ors (1963)* was over-ruled in this case by the SC.

The Right to Privacy is not merely a tool for the State to regulate an individual's personal space but also a framework that enables the establishment of institutions to safeguard personal privacy. In today's digital age, privacy plays a crucial role in ensuring the meaningful exercise of freedom of expression. Recognizing the complexities involved, the Supreme Court has stressed the importance of enacting comprehensive legislation to protect the right to privacy. It acknowledged that the Government had already formed a committee, chaired by retired Justice B.N. Srikrishna, in July 2017 to deliberate on a data protection framework. The committee's report emphasized the need to balance citizens' rights and State obligations without undermining trade and industry. As a result, it proposed a draft for the Personal Data Protection

Bill, 2019, aimed at establishing a robust legal framework for data protection in India. As a result of these due efforts, a fresh new law has been enacted by the Parliament on 11<sup>th</sup> August, 2023, i.e. the “Digital Personal Data Protection Act”, with an aim to protect the individuals from the breach of digital & informational privacy.

### **Conclusion**

The most significant development that can be seen in the Constitution is expansion of Article 21. It shows that an article does not stay the same as it was made. It keeps developing and expanding its scope with the changing time and this is proved through cases like A.K. Gopalan to Maneka Gandhi. Through these cases we have come so far with its wide interpretation. The interpretations have led to recognition of different elements which we were never felt essential to be considered initially, but now are a part of the Constitution such as right to privacy, right to die with dignity, right against sexual harassment, right to clean environment and right to sleep. These developments are the result that Right to life under Article goes behind mere existing and more of living a dignified life. It is therefore known as the ‘heart of the Indian Constitution’.

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