
ARTICLE 21 AT THE CROSSROADS: JUDICIAL INNOVATION, CONSTITUTIONAL AMBIGUITY AND THE QUEST FOR A DIGNIFIED LIFE

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ABSTRACT

The scope of Article 21 has undergone a remarkable evolution through judicial interpretations. Article 21 has evolved significantly from a predominantly negative right protecting against the exercise of arbitrary powers of the State to providing numerous ancillary rights within Article 21 through positive obligations by the State. This judicial evolution has led to higher standards of living and empowering the society by giving them rights beyond mere existence. However, this interpretation has also led to constitutional ambiguity due to lack of a clearly defined framework for the enforceability of the fundamental right. This undermines the effective realisation of the constitutional promise embedded in Article 21. This paper critically examines the constitutional ambiguity arising from the judicial interpretation of Article 21 and analyses how certain rights under the same provision are in conflict with one another. Further, the paper evaluates how implementation of several socio-economic rights necessarily depends upon the State's institutional and financial capacity and is not always capable of immediate realisation. The absence of clear boundary between the Legislature and Judiciary regarding the extent to which judicial interpretation should expand Article 21 creates inconsistent standards of enforcement of a fundamental right. The emerging challenges arising from AI-driven surveillance, large-scale data collection and exceptions under the Digital Privacy Data Protection Act, 2023 further poses fresh challenges to the meaningful enjoyment of the right to live a life with dignity. To address these concerns, the paper proposes a structured framework and sub categorisation within Article 21 and introduces a Layered Model of Enforcement aimed to promote greater constitutional clarity and consistency for better implementation. Lastly, the paper concludes that the future of Article 21 depends upon a balanced framework which is guided by the principles of Human Dignity and evolving societal needs and the institutional capacity of the State.

Keywords: Article 21; Right to Dignity; Judicial Activism; Constitutional Ambiguity; Progressive Realisation of Fundamental Rights.

INTRODUCTION

“To deny people their human rights is to challenge their very humanity” ~ Nelson Mandela

Human life is sacred and pure. It carries a profound moral worth that needs absolute preservation. Recognising this, The Indian constitution bestowed the Right to Live one's life with utmost dignity and liberty. Article 21 of the Indian constitution states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.”¹ It applies to both citizens of the country as well as non-citizens (including foreigners). It protects against the arbitrary and absolute powers of the state and guarantees the Fundamental Right to protect life and provide personal liberty.

Through Judicial Activism, Article 21 has gone through a whole process of evolution. However, what seems a simple and self explanatory article has led to different *de novo* interpretations in the contemporary world. This is because of the rapid changing nature of human life and so there requires interpretation of rights according to the evolving needs. Because of this, there are many instances which makes it problematic for the State to amicably achieve them. Due to various factors such as socio-economic disparities, economic inequalities, surveillance by the State and other such doctrinal gaps, it gets difficult and confusing for the full attainment of the said right. Consequently, these systemic legal gaps make it difficult for the state to deliver on its promises, leaving a major disconnect between what the law says and what people actually experience in their everyday life.

HISTORY AND EVOLUTION OF THE RIGHT TO LIFE

Human dignity is an inherent part of the Right to Life. Some ancient documents such as **Code of Hammurabi, Cyrus Cylinder, the Bible, Vedas, Quran** and other such codes emphasised justice and sanctity of human life. In **Rig Veda** a healthy lifestyle is connected with nature and environmental purity. In the modern context relating it with the Right to a healthy environment.

Magna Carta laid down that no free or innocent person could be imprisoned, devoid of his life and dignity, except through any lawful judgement or by the law of the land.

Lukman Harees in his book, mentions, “*Religion has always played a central role in the*

¹ India Const. art. 21.

protection of the human rights and especially in the promotion of human dignity.”²

This is easily done by the religion as it draws a moral code in which every human is treated as a child of God, thereby imposing a moral obligation on every human to respect others.³

Life is considered a priceless and cherished gift of God therefore, many scholars argue that the State has no rights to take away any individual's life even by lawful means or any capital punishment.

Further the **Universal Declaration of Human Rights⁴**, **International Covenant on Civil and Political Rights (ICCPR)⁵** and **International Covenant on Economic, Social and Cultural Rights (ICESCR)⁶** gave legal recognition to the Right to Life. The ICESCR broadened the vision of Right to Life that a dignified life cannot be achieved in isolation or in absence of adequate health, education, food, housing and favourable working conditions. This is recognised by the Supreme Court through various interpretations of Article 21 such as Right to Health, Livelihood, Education, Shelter, Clean Environment, etc as an integral part of Right to Life.

Constituent Assembly Debates on the Right to Life and Personal Liberty

The draft of article 21, originally presented as Article 15, was debated in the Constituent Assembly on 6 and 13 December 1948. It was debated whether to replace the term “*procedure established by law*” with “*due process of law*” (inspired by the American Constitution)⁷, eventually it was decided to give the power in the hands of the legislature by passing lawfully enacted legislation i.e. “due process of law” simultaneously leaving its scope to evolve through judicial interpretation with changing societal needs.

JUDICIAL EXPANSION OF ARTICLE 21

The judicial expansion of Article 21 has remarkably evolved in the recent decades. Initially, in

² Lukman Harees, The Mirage of Dignity on the Highways of Human ‘Progress’: The Bystander’s Perspective 60 (2020).

³ Swati Singh Parmar, The Idea of Human Rights in Ancient Indian Society, 2 Int’l J.L. 27,28 (2016).

⁴ G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).

⁵ International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

⁶ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

⁷ Constituent Assembly Debates, (Dec. 6-13, 1948) (India).

A.K. Gopalan v. State of Madras (1950)⁸, the Supreme Court adopted a narrow interpretation confining to only ‘procedure established by law’. However, later in **R.C Cooper v. Union of India (1970)**⁹ and further in **Maneka Gandhi v. Union of India (1978)**¹⁰, it was held that the procedure established must be just, fair and reasonable in nature. Thereafter, the interpretation of Article 21 led to a series of derivative rights like in **Francis Coralie Mullin Case**¹¹, the right to live with dignity not just animal-like existence was given. In the **Olga Tellis Case**¹², the right to livelihood was further interpreted. Further, **Bandhua Mukti Morcha**¹³ (protection of bonded labour and humane working conditions), **Consumer Education & Research Centre**¹⁴ (right to health of workers), **Pashchim Banga Khet Mazdoor Samity**¹⁵ (emergency medical care), **Justice K.S. Puttaswamy**¹⁶ (right to privacy) and **Common Cause**¹⁷ (right to die with dignity). Consequently, Article 21 is no longer confined to right against deprivation of life rather it has become a constitutional source of a variety of ancillary rights.

PROGRESSIVE REALISATION VS. FUNDAMENTAL RIGHT

The expanding horizon of Article 21 which was expected to be a Constitutional Strength can become an interpretative challenge in many scenarios. For instance, providing for health, nutrition, shelter and clean environment often depends upon the financial resources, administrative capacity and public policy. In India there are various socio-economic disparities between different states. This could lead to improper implementation of the said fundamental right. This relates with the concept of Progressive Realisation under ICESCR.

This leads to Constitutional ambiguity as the fundamental right is no longer ‘guaranteed’, but depends upon the institutional capacity. And it raises an important constitutional question whether every socio-economic entitlement be treated as an immediate effect and enforcement of fundamental rights. It creates a *Constitutional paradox*, where the fundamental right written in the Constitution is subject to immediate implementation but due to lack of resources and

⁸ A.K. Gopalan v. State of Madras, A.I.R. 1950 S.C. 27.

⁹ R.C Cooper v. Union of India, A.I.R. 1970 S.C. 564.

¹⁰ Maneka Gandhi v. Union of India, A.I.R. 1978 S.C. 597.

¹¹ Francis Coralie Mullin v. The Administrator, Union Territory of Delhi, A.I.R. 1981 S.C. 746.

¹² Olga Tellis v. Bombay Municipal Corporation, A.I.R. 1986 S.C. 180.

¹³ Bandhua Mukti Morcha v. Union of India, A.I.R. 1984 S.C. 802.

¹⁴ Consumer Education & Research Centre v. Union of India, A.I.R. 1995 S.C. 922.

¹⁵ Pashchim Banga Khet Mazdoor Samity v. State of West Bengal, A.I.R. 1996 S.C. 2426.

¹⁶ Justice K.S. Puttaswamy (Retd.) v. Union of India, A.I.R. 2017 S.C. 4161.

¹⁷ Common Cause v. Union of India, A.I.R. 2018 S.C. 1665.

implementation, it has become a progressively realised entitlement.

Article 21 has evolved through judicial interpretation rather than by a constitution amendment, therefore even if the Courts declare these derivative rights, ultimately the government implements them depending on availability of resources. This Constitutional theory meets governance where there is Right to food and shelter still, millions of people remain hungry and homeless. The conflict between the absolute constitutional text and the actual capacity of the state leads to what can be called an *enforcement deficit*. Once the judiciary grants status of an enforceable fundamental right to such socio-economic rights as the right to have access to clean water or to have specialized medical care for free, an immediate legal obligation appears before the State. Unlike civil and political rights, which only need the state not to interfere in the exercise of those rights, positive rights require significant financial expenditure and the construction of necessary infrastructures.

If different states suffer from a huge economic imbalance, enforcement of those rights is structurally impossible. This means that a constitutional commitment turns into a geographical accident. The access of a person to life-preserving treatment and to food will depend upon the economic situation of their particular state treasury and not upon the constitutionally-guaranteed rights. It means that regarding progressively attainable socio-economic objectives as immediate fundamental rights may seriously damage the reputation of the judicial branch, as it continuously issues orders that cannot be executed by the administrative branch.

JUDICIAL EXPANSION VS. DEMOCRATIC LEGITIMACY

The judicial expansion of Article 21 has been one of the remarkable developments in constitutional jurisprudence. Such expansion is justified on the parts of the courts as the Constitution is a living document and it requires constant interpretation on the part of the judicial system. However, this judicial creativity may undermine the principle of separation of power between the Legislature and Judiciary. It blurs the separation of powers by transferring policy making choices from democratically elected representatives to judiciary. At some point, the constitutional interpretation may become Judicial policymaking. At the same time, Judicial activism is considered to be crucial because judicial intervention is necessary where the executive fails to take actions on constitutional obligations. Institutional coordination between the Legislature, Executive and Judiciary is also important as some derivative rights require complex policy decisions like budgetary allocation, technical expertise and administrative

plannings. Therefore, it becomes important to ensure that Judicial activism does not turn into judicial restraint while also maintaining separation of powers and Democratic Legitimacy.

ABSENCE OF A DEFINED CONSTITUTIONAL BOUNDARY

Article 21 does not possess a constitutionally exhaustive boundary, as its content continues to evolve through judicial interpretation. With every coming decade, a new facet of the Right to Life emerges. There is no clear boundary to what extent this right can be subjectively interpreted. This creates uncertainty. Earlier it was a negative right i.e. only prohibiting the State from adopting arbitrary and absolute nature of power and deprivation of life but now, Article 21 has become a matter of positive constitutional obligation i.e. it requires the State to take proactive approach and provide resources or infrastructure to maintain a certain standard of living a dignified life. It has to now take positive steps and provide food, healthcare, shelter, education, environment, legal aid, privacy, internet, etc. The challenge is not whether Article 21 should remain to evolve or not, but evaluating whether addressing emerging issues of social-economic disparities, environmental degradation and concerns of technology remains faithful to constitutional principles. The need of the hour is to build a well defined objective test which is clear, consistent and predefined legal standards that the judges can apply on different cases. Instead of relying on personal judicial reasoning, a standard structured test based on fairness, justice, reasonableness and human dignity is significant.

CONFLICTING RIGHTS UNDER ARTICLE 21

Often rights under Article 21 clashes with each other. For instance, Right to Livelihood grants individuals the right to do any occupation and earn. But now in the recent landmark Supreme

Court judgement, **Maniyar Iliyaz Shaik Riyaz vs P. Ayyappan (2026)**¹⁸, the court observed the safety of pedestrians and expanded the horizon of Article 21 declaring Right to Footpath a fundamental right i.e. The right to walk safely on demarcated, unobstructed footpaths is a

Fundamental Right. Now this is in dispute with the Right to Livelihood of the Street vendors and Footpath dwellers. The struggle for dominance of socio-economic rights as provided by Article 21 demonstrated in the case of Maniyar Iliyaz @ Shaik Riyaz v. P. Ayyappan (2026), in which the Supreme Court raised the right to free footpaths to a fundamental right. The issue

¹⁸ Maniyar Iliyaz v. P. Ayyappan, 2026 SCC OnLine SC 1162.

lies in the fact that street vendors are an essential element of the Right to Livelihood recognized as such in accordance with the *Olga Tellis* precedent and constitute an indispensable economic resource for millions of people. In turn, the clearing of pavements by city administrations as a measure aimed at pedestrian safety becomes the destruction of the livelihood of the poor population of the city. In such a way, it is evident that Article 21 can no longer be seen as the struggle of rights for dominance and their annihilation through due process.

Instead of forcing people to choose between the pedestrian and the vendor, the judiciary should encourage the development of the harmonization of administrative regulations, which would involve the creation of zoning schemes of the city and the allocation of vending areas next to pedestrian pathways.

Similarly, In **Justice K.S. Puttaswamy vs Union of India (2017)**¹⁹, the Supreme Court unanimously recognised privacy as a Fundamental Right guaranteed by the Constitution. However, due to constant State surveillance like digital intercepts, centralised biometric databases, etc and other AI surveillance, there remains no clear constitutional test as to where and how much of this surveillance comes under the reasonable category. Likewise, The Right to Health does not give unlimited expenditure or free treatment despite being a fundamental right guaranteed.

These examples demonstrate how rights within one article can be conflicting to each other and how balancing competing constitutional interests remains significant.

INSTITUTIONAL CHALLENGES IN IMPLEMENTING ARTICLE 21

There are a number of challenges where implementation of Article 21 is not plausible. Due to various resource constraints and infrastructure facilities, the full attainment of the said right becomes uncertain. The financial resources required to achieve better health, environmental facilities, housing and shelter, etc is not enough. These budget constraints lead to underachievement of these rights within the Right to Life. Further, Judicial orders require active implementation by adequate executive actions. However, at ground level these implementations are weak, slow and steady. These issues are aggravated by corruption. The socio-economic disparities between the States leads to imbalance where one state may enjoy better ground level implementation than the other. The power dynamics between states

¹⁹ Puttaswamy, supra note 16.

occasionally clashes with the national development as a whole.

Lack of awareness among people about their Fundamental Right within Article 21 further exemplifies the situation. Marginalised groups, poor people and illiteracy leads to ignorance of the Rights and these people become prey to the bureaucratic inertia and systemic consequences. And lastly, due to judicial delays, even when people are aware of their rights, it would take a long time, even years to get access to justice.

ARTICLE 21 IN THE DIGITAL ERA

The digital era has fundamentally changed how Article 21 was conceived. While Justice K.S. Puttaswamy v. Union of India²⁰ recognised Right to Privacy, emerging technologies have created privacy breach concerns, for example, Artificial Intelligence, AI chatbots, Facial recognition, large scale biometric database, etc. The challenge now lies in maintaining transparency and accountability by ensuring due process of law.

The enactment of the **Digital Personal Data Protection Act, 2023** (DPDP Act) marks a majority step to maintain digital privacy with some exceptions for the State in specified circumstances.²¹ Yet, it has led to a series of debates regarding its exceptions permitting the State to collect and process personal data. In light of the DPDP Act that came into being in 2023, there will be quite a number of implications for the K.S. Puttaswamy's decision on the right to privacy. The most crucial aspect related to this legislation is its Section 17. Under such conditions, there will be a provision for the government and state authorities to be exempted from most of the important aspects of data protection law due to a vague definition of terms such as 'public order' and 'national security'. It creates an enormous discrepancy and an extremely unfair standard because while private entities will be fined and have very strict requirements for processing the data, the state would be free of these restrictions.

Taking into account the development pace of such technologies as facial recognition technology, artificial intelligence-powered surveillance and other state databases, the exemptions appear to be absolutely dangerous. One cannot have a dignified existence with the state having complete control over people's actions online without having any limitations at all. The DPDP Act would have to be consistent with the Constitution if it is to be so in reality. This

²⁰ Puttaswamy, supra note 16.

²¹ The Digital Personal Data Protection Act, 2023, No. 22 Acts of Parliament, 2023 (India).

is why it is necessary for the judiciary to intervene in order to interpret Section 17 in such a manner that when the government wants to violate the privacy rights and deal with personal data, it has to be done under judicial scrutiny.

AI's algorithmic biases and automation can affect fundamental rights and raise constitutional concern. The phased implementation of the DPDP Act must be done judiciously to ensure no data breaches by the Data Fiduciaries take place and privacy is protected in the digital space as well. The future of Article 21 needs a comprehensive framework where innovation, governance, privacy and national security is balanced meaningfully.

WAY FORWARD: TOWARDS A STRUCTURED FRAMEWORK

The Judicial expansion of Article 21 has undoubtedly paved the way for the dignity of human life. Through various judicial rulings, there's emergence of new fundamental rights within the scope of Right to Life which can be gained. However, the lack of a clearly defined doctrinal boundary leads to uncertainty, conflicting constitutional rights and practical implementation challenges. It becomes essential and necessary to state a more coherent constitutional framework in order to balance judicial innovation with implementation feasibility by the State so that maximum benefits can be reaped by the individuals and achieving a dignified life.

For better implementation feasibility, Courts may make subcategorisation within the umbrella provision of Article 21, for example division between **Absolute Rights** (Right to life, Dignity, No torture, etc) and **Progressive Rights** (Right to Nutrition, Environment, Housing, Employment, etc) depending upon the availability of the resources and further Rights which require immediate enforcement (like Legal aid, Emergency healthcare, Speedy trial, etc).

A LAYERED MODEL OF ENFORCEMENT

For the application of the Layered Model of Enforcement, the judiciary will need to lay down a hierarchy of scrutiny when there is a conflict between the rights which belong to different layers. The Core Rights including absolute personal liberty, human dignity, and freedom from custodial torture must be absolutely non-derogable. These rights are the foundation of the constitutional framework and must always have absolute primacy over considerations of efficiency or socioeconomic aims.

Take for example, the issue of government surveillance and privacy. If the government uses

national security as a reason to breach digital privacy, the courts should not give way to executive discretion. It must undertake a proportionality test in the matter and ask for legality, necessity and least infringement alternatives to be proved by the government.

On the other hand, when it comes to welfare rights like housing, nutrition or health care, the courts must give the executive a larger margin of appreciation. Judges are not lawmakers, policymakers or budgetary experts. Mandating absolute and unyielding expenditure can distort public finance and violate the separation of powers.

Thus, instead of micromanaging the state's resources, judicial review in the realm of welfare must concentrate on checking whether the state has created a non-discriminatory, progressive, and verifiable plan for the fulfillment of rights. This approach would help address the constitutional dilemma effectively by avoiding judicial over-reach and preventing any potential erosion of democratic legitimacy, at the same time, taking care that technological and welfare issues do not render Article 21 as mere rhetoric.

Within the ambient of Article 21, categorisation can take place through -

CORE RIGHTS - Rights wherein immediate implementation is required and it is a fundamental right rather than progressive realisation entitlement. These rights should be subject to immediate enforceability i.e justiciable rights. Examples- Life, Liberty, Dignity.

WELFARE RIGHTS - Rights which are expected to be provided by the State for the betterment or upgradation of the standards of living. These may be granted through resource availability. Examples- Health, Shelter, Food.

TECHNOLOGICAL RIGHTS - Rights which are significant to provide in the digital era, proactive high-tech development desired on the part of the State. These rights are essential because they bridge the gap between basic human rights and the digital age. Examples- Privacy, Data Protection.

EMERGING RIGHTS - Rights which are emerging with changing needs of the society as a whole. Examples- AI, Digital Identity, Safe Public Spaces. Courts should give each category different constitutional weightage and treat them differently. And therefore, these clear demarcations of Rights within the Right to Life and Dignity will solve many undefined constitutional limits and will keep pace with the evolving constitutional obligations.

CONCLUSION

The journey of Article 21 from a well coded and limited to the protection of life from arbitrary powers of the State to a series of ancillary rights shows the dynamic nature of societal needs and how the Indian Constitution keeps pace with it. Through judicial interpretations Right to Life has transformed into further guaranteeing encompassing rights such as livelihood, health, privacy, shelter, education, clean environment and many more to come.

This also simultaneously means that still certainty is required to find out whether the future expansion of Article 21 continues to depend upon judicial expansion or on the parliament to provide a clearer legislative framework defining the extent and implementation of Article 21 of the Indian Constitution. Similarly, competing or conflicting rights within the Right to Life requires judicious balance and keen attention. The transformative spirit of Article 21 meaningfully shapes the lives of people everyday. Ultimately, the Constitution is the grand norm which continues to evolve and ensures that the people of the country attain their fundamental rights wholly.