
JUDICIAL ACTIVISM AND THE EXPANSION OF SOCIO-ECONOMIC RIGHTS UNDER ARTICLE 21

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ABSTRACT

Judicial activism has been the primary engine driving the transformation of Article 21 within the Indian Constitution, reshaping it from a narrowly construed procedural safeguard into a comprehensive source of substantive socio-economic rights. In the wake of the landmark interpretative shift initiated by *Maneka Gandhi v. Union of India*, the Indian judiciary has widened the scope and content of Article 21 to encompass essential rights such as livelihood, health, education, housing, nutrition, and the foundational value of human dignity. This research paper critically examines the evolution of Article 21 as a rights-generative provision and interrogates the constitutional legitimacy of such expansive judicial interpretation. Employing a doctrinal and analytical methodology, the study analyses key judicial pronouncements to identify the interpretative techniques adopted by the Court, including purposive construction, the harmonisation of Directive Principles of State Policy, and the doctrine of the living Constitution. While this expansion has undoubtedly strengthened constitutional protection for socio-economically marginalised groups, it has also blurred the line between constitutional interpretation and judicial legislation. The article argues that judicial activism under Article 21 can be normatively justified as a response to structural injustice but, in the absence of clearly articulated institutional limits, such an approach may raise concerns regarding democratic accountability and constitutional balance.

Keywords: Judicial Activism, Article 21, Socio-Economic Rights, Constitutional Interpretation, Judicial Overreach, Indian Constitution.

Introduction

Judicial activism has emerged as a decisive and distinctive feature of Indian constitutional jurisprudence, particularly in the interpretation and expansion of fundamental rights. Among these rights, Article 21 occupies a position of exceptional significance, as it has undergone the most profound judicial transformation over time. During the initial phase of constitutional interpretation, Article 21 was viewed as a narrowly structured procedural protection, confined to regulating deprivation of life or personal liberty through established legal processes. However, through the gradual evolution of judicial interpretation, Article 21 has come to be recognised as a broad, rights-generating provision encompassing multiple dimensions of a dignified human existence.¹

In the initial phase of constitutional interpretation, courts adopted a restrictive approach to Article 21, emphasising formal compliance with the requirement of “procedure established by law” without subjecting such procedure to standards of fairness, reasonableness, or non-arbitrariness. This approach reflected a broader trend of judicial restraint, wherein the judiciary avoided encroachment upon the domains of the legislature and the executive. This position, however, underwent a decisive shift with the landmark judgment in *Maneka Gandhi v. Union of India*. In this case, The judiciary stated that the procedure under Article 21 must be fair and reasonable, not merely legal, which brought the idea of substantive due process into Indian constitutional law.²

After this change in interpretation, Article 21 was no longer limited to protecting individuals from arbitrary action by the State. Instead, it became a constitutional foundation for recognising a wide range of rights essential to leading a meaningful and dignified life. Through judicial interpretation, the Supreme Court interpreted Article 21 to include rights connected with livelihood, health care, education, housing, food security, environmental protection, and human dignity. Consequently, Article 21 evolved into a provision that not only safeguards negative liberties but also imposes positive obligations upon the State. This development reflects judicial sensitivity to India’s socio-economic realities, where legislative and executive mechanisms have often failed to adequately address the needs of marginalised and vulnerable sections of

¹ Sinha, S., and Pandey, S. (2022). *From Rights to Realities: The Constitutional Framework for Child Welfare in India*. ShodhKosh: Journal of Visual and Performing Arts, 3(2), 1184–1194. doi:10.29121/shodhkosh.v3.i2.2022.5018

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

society.³

The broad and liberal interpretation of Article 21 has, on one hand, strengthened the protection of fundamental rights, but on the other hand, it has also raised serious constitutional concerns. Critics argue that the judiciary, through judicial interpretation, has transformed socio-economic provisions into enforceable rights, thereby blurring the traditional distinction between fundamental rights under Part III of the Constitution and the directive principles of state policy enshrined in Part IV. Since the directive principles were deliberately made non-justiciable by the framers of the Constitution, their enforcement through Article 21 is seen by many scholars as judicial overreach. This kind of approach raises serious questions related to democratic legitimacy, institutional efficiency, and adherence to the principle of separation of powers.

The jurisprudence surrounding Article 21 thus reveals an inherent tension between constitutional necessity and institutional restraint. On the one hand, the judiciary bears the constitutional responsibility of protecting fundamental rights and ensuring that constitutional guarantees do not remain merely aspirational. On the other hand, the recognition of socio-economic rights typically involves complex policy choices, fiscal priorities, and administrative expertise areas traditionally reserved for the legislature and the executive. Determining the appropriate limits of judicial intervention in this context therefore presents a significant constitutional challenge.

The expansion of Article 21 has been justified by the judiciary through interpretative doctrines such as purposive interpretation, harmonious construction of Parts III and IV, and the concept of the Constitution as a living document. This approach treats the Constitution not as a static legal text but as a dynamic instrument capable of responding to evolving social conditions. However, the legitimacy of such an approach ultimately depends on whether judicial activism under Article 21 strengthens constitutional balance or inadvertently weakens democratic accountability.⁴

Against this backdrop, this article undertakes a critical examination of judicial activism in the expansion of Article 21, with particular emphasis on the recognition of socio-economic rights. It seeks to analyse the doctrinal foundations of this rights-creating jurisprudence, the

³ Ambekar, S. (2023). *The right to personal liberty under Article 21 of the Indian Constitution: A comprehensive analysis*. International Journal of Law, 9(6), 11–13. <https://www.lawjournals.org>

⁴ Shriya Jaiswal, *Article 21 - Its Scope And Expansiveness*, Indian Journal of Legal Review (Ijlr), 4 (2) Of 2024, Pg. 1008-1022, Apis – 3920 – 0001 & Issn - 2583-2344

interpretative techniques employed by the Supreme Court, and the broader constitutional implications of such expansion. The central argument advanced is that while judicial activism under Article 21 can be normatively justified as a response to structural injustice and institutional failure but the absence of clearly articulated limits risks unsettling the delicate balance between constitutional interpretation and democratic governance.

Judicial Activism and Socio-Economic Rights

Judicial activism refers to an interpretative approach in which courts adopt a purposive and value-oriented reading of constitutional provisions to advance justice, protect fundamental rights, and uphold constitutional morality, particularly in situations of legislative or executive inadequacy. Within the Indian constitutional framework, this approach derives legitimacy from the open-textured language of fundamental rights and the judiciary's role as the ultimate interpreter of the Constitution. Socio-economic rights such as health, education, livelihood, housing, food, and social security are distinct from civil and political rights in that they impose positive obligations upon the State, often involving complex policy choices, fiscal priorities, and administrative implementation. The Constitution originally situated these rights within the Directive Principles of State Policy under Part IV, rendering them non-justiciable and conceptually distinct from enforceable Fundamental Rights under Part III. This traditional divide reflected a constitutional preference for achieving socio-economic justice through democratic governance rather than judicial enforcement. However, persistent structural inequality and governance failures exposed the limitations of this rigid separation. It is within this constitutional context that Article 21 emerged as a mediating provision, enabling the judiciary to harmonise Parts III and IV by reading socio-economic values into the enforceable framework of the right to life and personal liberty. This interpretative development transformed Article 21 into a constitutional bridge between rights and directives, laying the doctrinal foundation for its evolution into a rights-generating provision an evolution that is examined in the following section.⁵

Evolution of Article 21: From Negative Liberty to Positive Obligations

The constitutional evolution of Article 21 represents an extremely significant shift in the

⁵ Jacob, J. Y. (2025). *Judicial activism and the protection of constitutional rights: A socio-legal analysis of India's evolving jurisprudence*. Journal of Advanced Academic and Fundamental Research (JAAFR), 3(11). ISSN 2984-889X.

jurisprudence of fundamental rights in India. In the initial interpretative phase of the Constitution, Article 21 was primarily regarded as a negative right, intended to protect citizens from arbitrary deprivation of life and personal liberty by the state. At that time, the scope of the article 21 was limited to ensuring that no individual was deprived of life or personal liberty except according to the procedure established by law. The courts did not examine the fairness, reasonableness, or propriety of that procedure, reflecting the prevalent formal constitutional approach and judicial restraint of the period.

This narrow interpretation was authoritatively articulated in *A.K. Gopalan v. State of Madras*⁶, where the Supreme Court held that the requirement of Article 21 was satisfied as long as a law prescribed a procedure for deprivation of life or personal liberty. The Court consciously refrained from testing the substantive fairness or rationality of the procedure and treated Article 21 as independent of other fundamental rights. Consequently, the right remained confined to a limited procedural guarantee, exercising only formal control over State action.

A decisive transformation in the interpretation of Article 21 occurred with the landmark judgment in *Maneka Gandhi v. Union of India*⁷. Rejecting the formalist approach adopted in *Gopalan*, the Supreme Court held that the procedure contemplated under Article 21 must be *just, fair, and reasonable*, and not arbitrary, oppressive, or unreasonable. Through this reasoning, the Court effectively introduced the concept of *substantive due process* into Indian constitutional law and recognised an intrinsic interrelationship between Articles 14, 19, and 21⁸. This judgment transformed Article 21 from a purely procedural safeguard into a substantive right grounded in dignity, fairness, and justice.

After this interpretative change, the judiciary recognized that the right to life is not limited to mere physical existence, but also includes the right to live life with human dignity. Along with this perspective, the concept of positive duties on the State under Article 21 developed, according to which it is the duty of the State to create social and economic conditions necessary for a dignified life. As a result, Article 21 evolved into a comprehensive framework of rights, not merely a negative restriction on State action, but one imposing positive state responsibility.

This transformation is clearly reflected in several judicial decisions. In *Olga Tellis v. Bombay*

⁶ A.K. Gopalan v. State of Madras, AIR 1950 SC 27 (India).

⁷ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 (India).

⁸ Indian Constitution Article 14,15,& 19.

*Municipal Corporation*⁹, the Supreme Court recognised the right to livelihood as an integral component of the right to life, observing that deprivation of livelihood would render the right to life meaningless. Similarly, in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*¹⁰, the Court imposed a positive obligation upon the State to provide timely medical treatment, thereby recognising health care as a constitutional duty flowing from Article 21.

Through such decisions, Article 21 emerged as an effective means for the judicial enforcement of socio-economic rights, based on the values inherent in the Directive Principles of State Policy. The judiciary justified this expansion on the premise that fundamental rights and directive principles are not contradictory, but complementary to each other, and that social and economic justice is essential for the meaningful enjoyment of civil and political freedoms. As a result, Article 21 developed into a constitutional bridge through which the non-justiciable directive principles could acquire a justiciable form.

However, the shift from negative freedom to positive obligations has not been without controversy. Imposing positive duties on the state raises complex questions related to institutional capacity, allocation of resources, and democratic accountability. Critics argue that such a broad interpretation risk transforming courts into policy-making institutions, potentially affecting the balance of the separation of powers. In contrast, supporters contend that in a society burdened with deep socio-economic inequalities, the judicial enforcement of positive duties under Article 21 is necessary to ensure that constitutional rights do not remain merely symbolic assurances.

Thus, the evolution of Article 21 reflects a broad constitutional transition from formal proceduralism to substantive justice, and from state restraint to state responsibility. While this transformation underscores the decisive role of the judiciary in building a rights-based constitutional order, it also highlights the need for principled limits to safeguard institutional balance and democratic governance.¹¹

Judicial Expansion of Socio-Economic Rights under Article 21

The judicial expansion of socio-economic rights under Article 21 marks a significant

⁹ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180 (India).

¹⁰ *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37 (India).

¹¹ Shrivastava, A. (2024). *Beyond survival: The transformative role of Article 21 of the Indian Constitution*. Indian Journal of Law and Legal Research, 7(3), 9367. ISSN 2582-8878.

development in Indian constitutional jurisprudence, indicating a shift from a narrow procedural understanding of the right to life towards a substantive and rights-oriented interpretation. Through judicial activism, the Supreme Court has recognized that the meaningful enjoyment of civil and political liberties is not possible in the absence of fundamental socio-economic conditions that are essential for human existence and dignity. As a result, the interpretation of Article 21 has been such that it encompasses various socio-economic entitlements, thereby imposing on the State a positive obligation to ensure a minimum standard of living and social justice. This rights-expansive approach is clearly reflected in numerous judicial decisions that recognize specific socio-economic guarantees under Article 21, as evident from the following judicial precedents;

A. Human Dignity

Human dignity has been considered the central component of the right to life under Article 21. The Supreme Court has consistently held that the meaning of life is not merely physical existence, but life with dignity. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*¹², the Court held that the right to life includes basic necessities like adequate nutrition, clothing, shelter, and conditions for a humane existence. This judgment laid a strong foundation for the expansion of Article 21 by establishing dignity as a guiding value for its development.

B. Right to Health

In *State of Punjab v. Mohinder Singh Chawla*¹³, the Supreme Court clarified that the right to health and medical care is an integral part of the right to life. The Court emphasized that the state has a constitutional obligation to provide adequate medical facilities, particularly in circumstances where the lack of such facilities could endanger human life. This judgment reinforces the principle that the protection of life and effective access to medical care are paramount constitutional responsibilities of the state under Article 21.

C. Right to Education

In *Mohini Jain v. State of Karnataka*¹⁴, the Supreme Court recognized the right to education as an integral part of Article 21, arguing that education is essential for human dignity. The Court

¹² *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, AIR 1981 SC 746 (India).

¹³ *State of Punjab v. Mohinder Singh Chawla*, (1997) 2 SCC 83 (India).

¹⁴ *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666 (India).

clarified that being denied access to education, especially due to economic reasons, constitutes a violation of the right to life. Thus, the Court imposed a constitutional obligation on the state to make education accessible and attainable.

D. Right to Shelter and Food

In *Chameli Singh v. State of Uttar Pradesh*¹⁵, the Supreme Court held that housing (shelter) is not limited to merely providing a roof over one's head, but also includes adequate living space, basic infrastructure, and a safe and healthy environment. In this way, the Court directly linked the right to housing with human dignity and quality of life.

In the same vein, the Supreme Court has also recognized the right to food as an integral part of the right to life under Article 21, acknowledging that freedom from hunger is essential for human existence and dignity. In *People's Union for Civil Liberties v. Union of India*¹⁶, the Court imposed a positive obligation on the State, directing it to prevent starvation and ensure the effective implementation of food and nutrition-related programs.

E. Bonded Labour and Freedom from Exploitation

The Supreme Court, by expanding the scope of Article 21, has included exploitative labour practices and the problem of bonded labour under its ambit. In *Bandhua Mukti Morcha v. Union of India*¹⁷, the Court explicitly held that bonded labour is a gross violation of human dignity and personal liberty. The Court imposed a positive obligation on the state to identify, rescue, and rehabilitate bonded labourers. Thus, this judgment directly linked social justice and labour welfare to the right to life, thereby strengthening the broad and humane interpretation of Article 21.

Interpretative Techniques Used by the Judiciary

The expansion of Article 21 has largely resulted from the judiciary moving away from a formalistic interpretation and adopting a value-based constitutional approach. The Supreme Court has consistently interpreted the right to life in a substantive manner, emphasizing not just mere physical existence but the quality of life and living conditions. By reading Article 21 in

¹⁵ *Chameli Singh v. State of Uttar Pradesh*, (1996) 2 SCC 549 (India).

¹⁶ *People's Union for Civil Liberties v. Union of India*, (2001) 5 SCC 568 (India).

¹⁷ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

conjunction with constitutional values such as human dignity, equality, and social justice, the Court has expanded its scope to effectively address problems arising from socio-economic deprivation and inequalities.

An important legal approach adopted in the interpretation of Article 21 has been the use of the state's directive principles as guiding norms. Although these principles are formally non-justiciable, the judiciary has nonetheless accepted them as constitutional guidelines that give substance to the content of fundamental rights. Through this approach, the court has developed Article 21 into a broad and meaningful right by incorporating socio-economic obligations. Further, the Court's reliance on the idea of a dynamic and evolving Constitution has allowed it to respond to changing social realities and governance failures. These interpretative techniques have collectively transformed Article 21 into a flexible and rights-generating provision, while simultaneously inviting debate on the constitutional limits of judicial creativity.

Critical Evaluation: Judicial Activism or Judicial Overreach?

The judicial expansion of socio-economic rights under Article 21 has been widely praised for advancing substantive justice and giving concrete meaning to the Constitution's commitment to human dignity and social welfare. In a socio-economically unequal society marked by governance deficits, judicial activism has often functioned as a corrective mechanism, ensuring that constitutional guarantees do not remain merely symbolic. By recognising rights relating to health, food, shelter, education, and a clean environment, the Supreme Court has addressed situations where legislative or executive action has been inadequate or ineffective.

However, this rights-expansive jurisprudence has also attracted sustained constitutional criticism. A major concern relates to the principle of separation of powers, as the enforcement of socio-economic rights often involves issues such as policy-making, budget allocation, and administrative priorities, which traditionally fall within the jurisdiction of the executive and legislature. Critics argue that by converting non-justiciable Directive Principles into enforceable rights through Article 21, the judiciary risks assuming a policy-making role, thereby undermining democratic accountability and institutional competence.

The concern of judicial overreach is further intensified in cases involving continuing mandamus and detailed judicial directions, where courts have remained engaged in policy implementation over extended periods. Such interventions, while well-intentioned, may blur

the line between constitutional adjudication and governance, raising questions about institutional capacity and legitimacy. Judicial caution in this regard has been emphasised in decisions such as *Divisional Manager, Aravali Golf Club v. Chander Haas*¹⁸, where the Court warned against judicial encroachment into executive functions.

Simultaneously, a purely restraint-based approach may result in constitutional abdication, particularly when fundamental rights are threatened by systemic neglect or structural injustice. The challenge, therefore, lies not in rejecting judicial activism altogether, but in ensuring that it is exercised within principled limits. As recognised in *Minerva Mills Ltd. v. Union of India*¹⁹, constitutional governance requires a balance between Fundamental Rights and Directive Principles, rather than the dominance of one over the other.

Accordingly, judicial activism under Article 21 can be considered constitutionally valid when it acts as an effective safeguard against violation of rights and inaction of the State, but problematic when it substitutes judicial preferences for democratic policy choices. A calibrated approach marked by deference in policy-intensive matters and intervention where basic human dignity is at stake offers the most sustainable path for preserving both rights protection and constitutional balance.

Balancing Rights Protection and Institutional Restraint

The expansion of Article 21 into a source of enforceable socio-economic rights highlights the transformative role of the Indian judiciary in protecting human dignity and substantive justice. However, the constitutional legitimacy of this expansion depends on maintaining a careful balance between effective rights protection and institutional restraint. While judicial intervention has often been necessary to remedy executive inaction and systemic neglect, excessive or unprincipled intervention risks undermining democratic accountability and the doctrine of separation of powers.

Judicial protection of socio-economic rights is constitutionally justified where State action or inaction threatens the minimum conditions necessary for human survival and dignity. In matters relating to food security, health care, shelter, environmental safety, and freedom from exploitation, courts have intervened to prevent irreparable harm and to ensure that fundamental

¹⁸ *Divisional Manager, Aravali Golf Club v. Chander Haas*, (2008) 1 SCC 683 (India).

¹⁹ *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India).

rights do not remain illusory. In a socio-economically unequal society, a purely restraint-based judicial approach may amount to constitutional abdication rather than fidelity.

At the same time, adjudication of socio-economic rights often involves complex policy choices, fiscal considerations, and administrative expertise. Courts are institutionally limited in their capacity to design and supervise welfare policies, particularly through prolonged judicial oversight. Excessive reliance on detailed directions and continuing mandamus may blur the distinction between adjudication and governance, weakening the accountability of elected institutions and raising concerns of judicial overreach.

A principled balance therefore requires *calibrated judicial intervention*. Courts should intervene decisively where there is clear violation of basic rights affecting human dignity or where State inaction results in serious and immediate harm. Conversely, in areas involving competing policy priorities or technical expertise, judicial deference should ordinarily prevail. Such an approach preserves judicial legitimacy while respecting the functional competence of the legislature and executive.

This balance is consistent with the constitutional vision of harmony rather than hierarchy among constitutional provisions. As recognised in *Minerva Mills Ltd. v. Union of India*ⁱ, Fundamental Rights and Directive Principles are complementary and must be balanced to maintain constitutional equilibrium. Judicial interpretation under Article 21 must similarly harmonise rights protection with institutional limits.

Ultimately, the sustainability of Article 21 jurisprudence lies in a restrained yet responsive judicial approach one that safeguards essential socio-economic rights while remaining conscious of constitutional boundaries. Such a balance preserves the transformative potential of Article 21 without unsettling democratic governance or institutional balance.

Conclusion

The expansion of Article 21 has fundamentally restructured Indian constitutional jurisprudence by incorporating the substantive socio-economic content based on human dignity and social justice into the right to life. Through purposive interpretation, the Supreme Court has ensured that constitutional guarantees operate meaningfully in a society marked by structural inequality and administrative failure. This jurisprudence has enabled courts to address situations where

legislative or executive action has proved inadequate, thereby preventing constitutional rights from degenerating into symbolic assurances.

Nevertheless, the rights-expansive interpretation of Article 21 raises legitimate concerns relating to democratic legitimacy, separation of powers, and institutional competence. The enforcement of socio-economic rights often implicates policy choices and resource allocation, areas traditionally reserved for elected institutions. This study therefore argues that the constitutional challenge lies not in repudiating judicial activism, but in disciplining it through principled restraint.

Judicial intervention under Article 21 is normatively justified where State action or inaction threatens basic conditions of survival and human dignity. However, in policy-intensive domains involving competing socio-economic priorities, courts must exercise deference and limit themselves to setting constitutional standards rather than assuming governance functions. A restrained yet responsive judiciary best preserves the transformative potential of Article 21 while maintaining constitutional balance and democratic accountability.
