

Mapping the Expanding Horizons of the Right to Life and Personal Liberty under Article 21 of the Constitution of India

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Abstract

The right to life and the freedom to pursue one's own interests are included in the founding documents of a great number of countries, including the United States, Switzerland, and India, amongst others. This right is not independent of any other fundamental liberties; rather, it incorporates a broad variety of those freedoms. In the past, these safeguards were restricted to regions that were already protected, and their scope was severely constrained. In addition to advances in social conditions, indicators of human development include rising rates of literacy and the accumulation of wealth. As a consequence of globalisation, the ideas of "life" and "liberty" have taken on a more all-encompassing sense, and the rights that come under the aegis of this notion have expanded to include a far more comprehensive set of protections. The revolution in the fundamental concept calls for a re-evaluation of the growth, meaning, and depth of the right to life and personal liberty, as well as the role of the "court and justification for such a liberal interpretation". This is in addition to examining the function of the court and the justification for such a liberal interpretation. Over the course of history, the application of Article 21 has been significantly expanded, mostly as a result of judicial activism that was guided by the idea that legal reality should be taken into account. As a consequence of this finding, the extent of Article 21 and the growing significance of judicial activism are the primary foci of this investigation.

Keywords: Article 21, fundamental rights, judicial activism, liberty, life

INTRODUCTION

Humans, regardless of their country, caste, gender, or age, have a fundamental right to life and personal liberty. This is the contemporary term for what have previously been called God-given or natural rights. The phrase "fundamental right to life and personal liberty" is not limited to ensuring a person's continued existence; rather, it include all to which a person is entitled at any given moment and in any given circumstance. The article is broken up into four primary parts that are denoted by their respective subheadings. The first section, titled "Introduction: Right to Life and Personal Liberty", offers a concise summary of the subject matter. This part also discusses the reasons why the researcher

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Received Date: March 09, 2023

Accepted Date: March 22, 2023

Published Date: April 05, 2023

Citation: Chetan Sachdeva. Mapping the Expanding Horizons of the Right to Life and Personal Liberty Under Article 21 of the Constitution of India. Journal of Family & Adoption Law. 2022; 5(2): 1–10p.

decided to write the study, as well as the particular problems that she wanted to find answers to. In the second section, the Indian Constitution, the history of India's Constitution, namely Article 21, is dissected and examined. The third section offers an examination of the ways in which the American Constitution safeguards individual rights, including the preservation of one's life and freedom. In the fourth section, the author discusses the recent expansion of the scope of Article 21 in the Indian Constitution. In section five, she brings the study to a close by examining the significance of judicial activism as well as the role of the judiciary in

providing meaningful interpretation and broadening the scope of Article 21. This brings the total number of sections in the study to five.

HISTORY AND SIGNIFICANCE

Freedom and the state's respect for citizens' rights to personal autonomy are frequently cited as indicators of a country's level of development. Therefore, these rights are crucial to progress at the personal, organizational, and national levels. It protects the person and makes them stronger, hence it is biased against prejudice. How a country's laws treat its citizens' lives and freedoms is the litmus test for every democracy. India's fundamental rights are based on and influenced by the "English Bill of Rights (1689), the American Bill of Rights (1791), and the French Declaration of the Rights of Man (1789)". Individuals might be arrested and detained without a warrant, searches and seizures could be conducted without a court order, and public meetings were severely restricted after the Rowlett Act of 1919 which gave the British government and the police sweeping new powers. Over time, this sparked nationwide movements of peaceful civil disobedience. After the independence movements in India were inspired by Ireland's Constitution and its "Directive Principles of the State Policy", the people rose up against the behaviour of the government and demanded autonomy.

Members of several Indian political parties formed the Nehru Commission in 1928 to recommend constitutional changes for the country. The duty of creating a Constitution for India fell on the shoulders of the Constituent Assembly of India, a body of elected delegates from a wide range of political parties and ideologies, as well as the chairs and members of several committees and subcommittees. In its first meeting in 1946, the Constituent Assembly debated the proposed Constitution many times. Assembly debate on the proposed Article 15 of the Constitution was recorded in minutes and took place between December 6th and 13th, 1948. Meanwhile, on 10 December 1948, "the United Nations General Assembly enacted the Universal Declaration of Human Rights," a landmark event that had far-reaching implications for the Indian Constitution.

Even though the Universal Declaration of Human Rights was not a legally binding document, India nonetheless embraced its fundamental ideas as a result of signing the document. In the next sections, we will have a thorough study of all of these sources.

The pursuit of freedom of thought, speech, religion, faith, and worship is stated explicitly in the Preamble of the Constitution of India. This theory is derived from the philosophical underpinnings of the French Revolution of 1789.

SCOPE AND AMBIT OF ARTICLE 21

After years of deliberation, the people of India elected a new Constitution in 1949 via the Constituent Assembly; it replaced the Magna Carta and became legally binding in 1950. The Indian Constitution is a hybrid document, including elements from several other models. The fundamental rights outlined in Part III of the Constitution were recognised with the addition of suitable amendments from the Constitution of the United States of America, which we will examine in the section that follows this one. The language in Article 21 is comparable to the rights that are given to citizens of the United States by the 14th Amendment. The following is what Article 21 of the Constitution of India states: "*No person shall be deprived of his life and personal liberty except according to the procedure established by law.*"

According to this Article, the state has the obligation or duty to protect the lives and freedom of all persons who are present inside the territory at all times, unless the established procedures and the law specifically allow for anything else to occur. These are the most basic rights that no government has the authority to ever take away from its people, and no government ever will. This article protects a number of essential liberties, including one that states a person has the "right to life and personal liberty". In accordance with the Constitution of India, not only citizens but also anybody who is physically present inside the boundaries of the nation is eligible for the safeguards that are described in this section. The

Apex Court in the case of *Chairman, Railway Board v. Chandrima Das* [1] has emphasized that “even those who come to India as tourists also have right to live, so long as they are here, with human dignity, just as the State is under an obligation to protect the life of every citizen in this country, so also the State is under an obligation to protect the life of the persons who are not citizens” [1]. The aforesaid article includes three essential words or phrases, each of which calls for more explanation and analysis. These words are as follows.

Right to Life

In accordance with this Article, the right to life does not only refer to the right to continue existing. The right to life extends beyond the simple ability of an animal to exist, as was recognised in the case of *Kharak Singh v. State of U.P.* [2]. The court decided in this instance that a prohibition on a person’s life includes a ban on all of their appendages and powers. It is about being able to do whatever you want to in life without fear of losing what you need to survive, and that includes having a stable source of income. In the case of *Sunil Batra v. Delhi Administration* [3], the court said that the right to life extends to protecting one’s culture, custom, legacy, and everything else that gives a man’s life meaning and purpose in the prime of his existence. Therefore, the entitlement to quiet home life, undisturbed sleep, and sound health will all be included.

A writ petition was just recently submitted to the Supreme Court in the matter of *Ashwani Kumar v. Union of India and Ors.* [4]. In the process of determining what it means to be alive, the Supreme Court came to the conclusion that individuals have the right to be shown respect. The Court commented on its decision by noting that this Article is crucial to attaining social justice as envisioned in the Preamble. This statement was made in response to the argument that the Court’s judgement was incorrect.

The Supreme Court ruled that the constitutional duty to ensure that all health care and medical facilities are accessible to the elderly must be closely monitored to ensure that it is being effectively implemented. A paraphrase of the talk, we agree that Article 21’s guarantee of the right to life must be broadly interpreted. We recognize that the right to life includes a broad range of protections, but our focus here is on only three of the protections guaranteed by the Constitution. The petitioner has outlined three rights: the right to a dignified life, the right to adequate housing, and the right to adequate medical care. The State must guarantee that all people have access to, and are afforded protection for, these basic liberties [2]. To guarantee that the rights of the people are protected, acknowledged, and enforced by the State, a constant mandamus must be exercised.

Personal Liberty

A.V. Dicey argues that the right to personal liberty implies, at its core, that an individual has the right not to be detained in jail or subjected to any other kind of bodily coercion that cannot be justified by law. However, this definition was adequate at the time when the state owned all of the means of production and the people had very little access to them. The concept of freedom had to be refined as society evolved. The current use of the word “liberty” encompasses not only the freedom to pursue one’s interests but also the various rights that ensure a person may do so in comfort. To restrict and define the scope of the right to liberty, the qualifier “personal” is added. Freedom of movement across India, freedom to engage in any lawful occupation, and so on are all part of the personal liberty guaranteed by the Constitution. It is the responsibility of the State to offer a free and obligatory education to all children between the ages of 6 and 14 as stated in Article 21A, which was inserted by the 86th Amendment Act. One of the most significant changes under Article 21’s purview was this. Here are a few examples of things that might fall within Article 21’s right to liberty umbrella including, *inter alia*, “the right to equal opportunity, the right to freedom under Article 19, the right against exploitation, the right to freedom of religion, cultural and educational rights, remedies constitutional right, right to education, right against arbitrary arrest and detention, and prohibition of child labor and trafficking”.

The purpose of ensuring everyone's right to freedom of speech, religion, faith, and worship is to promote social justice and ensure that everyone has these fundamental human rights. It is a means through which everyone may exercise personal agency. Therefore, it is evident that no one definition can fully capture the essence of individual freedom.

In the case of *Maneka Gandhi v Union of India*, [5] the Supreme Court ruled that the rights guaranteed by Articles 14 and 19 do not exclude those guaranteed by Article 21 and that Article 21's expansive scope includes those rights. The Magna Carta of human rights and the Golden Triangle both consist of these three articles. The Constitution's Bill of Rights (Article III) guarantees "neither unique nor exclusive" rights. Any legislation that restricts an individual's freedom must pass muster with the basic rights guaranteed by Article 19. The principle of reasonableness must be verified and projected in the method when citing Article 14. Additionally, the court held that Article 21 is guided by natural justice, which incorporates the principles of:

1. *Audi altered partem*: The hearing rule mandates that each party to litigation be given a fair and equal chance to submit their case and be heard by the other side.
2. *Reasoned decision*: This implies that the court's judgment must be accompanied by an adequate rationale that is announced in open court.
3. *Rule against bias*: The judgment of the jury or panel must be made in a free and fair manner, and no one should serve as the judge in his case.

By adopting a broad reading, in this case, the court has paved the way for citizens to demand the protection of rights that are inherent to being human even if they are not specifically guaranteed by the Constitution. Later sections go into more depth on the many features and emerging issues of this article.

PROCEDURE ESTABLISHED BY THE LAW

One may say that a process has been established when there has been appropriate adoption of legislation, when all procedural rules have been met, and when there is no conflict with the Constitution. This provision of Article 21 is very important due to the fact that it implies that the rights granted by Article 21 are not absolute, but rather are open to restriction by the Legislative Branch via the 'process' that has been outlined. If you take a look at the Constituent Assembly debates as a whole, you will notice that there was a lot of discussion about whether or not to use the phrase "procedure established by law" or the "procedural due process clause" from the 14th amendment of the United States Constitution in Article 15, which is now Article 21. This was a topic that generated a lot of debate. Because there was worry that the due process provision may lead to court domination over Parliament, the word "due process" was altered to the expression "procedure specified by law". If the current article, which states that "no person shall be deprived of his life or liberty without due process of law", is changed to the original article, which states that "no person shall be deprived of his life or liberty without due process of law" according to Kazi Syed Karimuddin, it will give Parliament a great deal of power because the Judiciary will no longer be able to declare a bill to be null and void merely because it breaches a right that is guaranteed by the Constitution. Nothing was ever said about this idea throughout the Constituent Assembly's deliberations.

Courts throughout history have always been extremely cautious to interpret Article 21 in a manner that maintains loyalty to the writers of the Constitution's intended intent when writing the document. On the other hand, as a result of legal modernity and globalisation, judicial activism came into being, and courts started enforcing due process safeguards. Recent case law and judicial decisions have shown that constitutional courts use the notion of procedural due process in addition to substantive due process, allowing the court to question not only the procedural legislation but also the substantive value choices of the legislative arm of government, in order to preserve the rights of the people as opposed to the State. This is done to ensure that citizens' rights are safeguarded in their interactions with the government.

The Apex Court in the case of *A. K. Gopalan v. State of Madras* [6], in deciding the constitutionality of the Preventive Detention Act of 1950, declined to read the Article by the doctrine of “due process of law” although the provision of this article stated that the “process established by law” is the only acceptable means by which the protection of rights guaranteed by Article 21 may be denied. Justice Kania, citing *A.K. Gopalan*, had argued that the Article’s use of the term “due process” restricted the court’s ability to interpret the provision further and seek its reasonableness; however, a new precedent was set through the judgment in the *Maneka Gandhi* case, expanding the scope of these two phrases. Also, the court ruled that every legal process must be fair, reasonable, and non-arbitrary to be upheld.

ARTICLE 32 AND THE RIGHT TO CONSTITUTIONAL REMEDY

Article 21’s protections, as well as those of the other fundamental rights guaranteed by Part III of the Constitution, are enforceable via the High Courts and the Supreme Court’s writ authority. Article 32 of the Constitution outlines the procedures for enforcing these rights:

- a. “The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this part is guaranteed.”
- b. “The Supreme Court shall have the power to issue directions or orders or writs, including writs like habeas corpus, mandamus, prohibition, quo warranto, and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this part.”
- c. “Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).”
- d. “The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution [7].”

According to Article 226, any High Court or the Supreme Court has the authority to hear a writ against the state that seeks enforcement of these rights. The writ may be filed against the state “(defined under Article 12 of the Constitution which includes Government and the Legislatures of the Union Government and the Legislatures of each state and all the local or other authorities within the territory of India or under the control of the Government of India).” In accordance with Article 359, these safeguards will continue to be in effect even if a state of emergency has been proclaimed.

RIGHT TO LIFE AND LIBERTY: A COMPARATIVE STUDY BETWEEN INDIA AND THE UNITED STATES OF AMERICA

In the eyes of the international community, there are four distinct generations of human rights. When the first set of human rights were being drafted, commonly known as the generation of civil and political rights, “the right to life and personal liberty” was acknowledged as the most fundamental right. During this time, the rights to equality before the law and freedom of expression were also established. As thoughts and notions about the state, political authority, and rights and freedom evolved through time, a resistance to monarchical absolutism emerged. These protections have developed under a variety of names in different nations, including [8]: “the Magna Charta in 1215; the Petition of Rights in 1628; the England Bill of Rights (Declaration of Rights) in 1689; The American Declaration of Independence in 1776; and the French Declaration of Human and Citizen Rights in 1789.”

The United States Constitution, with its seven original articles and twenty-seven subsequent amendments, is the world’s oldest written Constitution. After the first 10 amendments to the Constitution, known as the Bill of Rights, were ratified and declared the basic and essential rights of US citizens, the XIVth amendment was ratified to further ensure the protection of these rights and freedoms. One of the most essential and consequential part of the American Constitution is the outcome of this amendment and Section 1 of the XIVth amendment, and it reads as follows:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United

States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws [9].”

Citizens of the United States have been given invaluable protections against the abuse of power by the State thanks to the rights guaranteed by the Fourteenth Amendment. The 14th Amendment protects not just people's lives and freedoms but also their property, unlike Article 21 of the Indian Constitution, which borrowed the notion from the American Constitution. When the XIVth Amendment was adopted in India, the framers made three significant changes:

- a. The American Constitution guarantees the right to life, liberty, and property, but the Indian Constitution guarantees simply the right to life. The right to one's property is not protected under Article 21, and the word “liberty” was qualified by the word “personal” to exclude freedoms that are not personal.
- b. While only US citizens are afforded the protections of the 14th Amendment, all Indian nationals and anybody else legally present in the country enjoy such protections.
- c. While ‘due process is a cornerstone of the American Constitution, the only time Article 21 of the Indian Constitution allows the State to act without violating its obligations is when that State's power is acting by the law's set method.
- d. While deciding upon the meaning and ambit of the term ‘Life’ the US Supreme Court in the case of *Munn v. Illinois* [10], “By the term “life” as here used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world [11].”

THE EXPANDING AMPLITUDE OF ARTICLE 21

It has been demonstrated, on the basis of the interpretations given by the courts in post-independence rulings, that the previous stance of the courts in India was directive and confined to the terms of the legislative body. However, with the judgment in *Maneka Gandhi's* [12] case, there was a radical shift in the liberal interpretation of Article 21 and the provision's voice. As a result of this case, a new era of constitutional change began, one that prioritised judicial activism, corruption prevention, and citizens' basic rights. This was done to ensure that it could broaden the scope of the law. Specifically, it did this to guarantee that it could expand the reach of the law. The Supreme Court has, in a few seminal decisions, liberally interpreted Article 21 by employing judicial activism to examine and overturn arbitrary government measures enacted by the legislature as being *supra vires* the Constitution. This was done in order to protect the Constitution from being eroded. The Directive Principles of State Policy are located in Part IV of the Constitution, which includes Articles 36 through 51. This section of the Constitution is essential to understanding the types of rights that are eligible for protection under Article 21, as it is where one can find these principles.

The original definition of “right to life” only included securing food, housing, and clothes. However, as civilization progressed, so did people's social requirements, expanding the meaning of “right to life” to encompass the right to a healthy diet, good health, and a dignified existence. In the case of *Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors* [13], here, Bhagwati J. also remarked that the right to life included much more than only physical survival, including things like enough nourishment and basic health and treatment:

“We think that the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing and shelter, and facilities for reading, writing, and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings it must in any view of the matter, include the right to the necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self. Every act which offends against or impairs human dignity would constitute deprivation pro tanto of

this right to live and it would have to be by the reasonable, fair, and just procedure established by law which stands the test of other fundamental rights.” [14]

In the case of *P. Rathinam v. Union of India* [15], the court deliberated on the question of whether or not the right to die is included in the right to live, and the majority of its members reached the conclusion that it was. As a result, the court declared that Section 309 of the Indian Penal Code was null and void because it was in violation of the Constitution of India. However, this was overruled in the case of *Gian Kaur v State of Punjab* [16] whilst the Indian Supreme Court has ruled that suicide is illegal under the Indian Penal Code and that the right to life does not include the right to die; the court has ruled that Article 21 includes the right to die with dignity. Also, in one of the most renowned cases of *Common Cause (A Regd. Society) v. Union of India*, [17] the Supreme Court ruled that Article 21's protection of the right to life included active euthanasia.

Freedom from Exploitation

This Constitution guarantees everyone the right to pursue happiness without governmental interference or restraint, and Article 32 ensures that anybody whose rights have been violated or whose freedoms have been otherwise compromised may seek redress in a court of law. Nonetheless, problems emerge as to what happens if the aggrieved party is unable to or otherwise prohibited from relocating to the court. What kind of recourse does such a person have under such conditions? The Apex Court considered the circumstances in the case of *Bandhua Mukti Morcha v. Union of India* [18] while discussing the Bonded Labour System (Abolition) Act provisions, and held that, “....liberty is no doubt a fundamental right guaranteed to every person under the Constitution. There cannot be any manner of doubt that any person who is wrongfully and illegally detained and is deprived of his liberty can approach this Court under Art. 32 of the Constitution for his freedom from wrongful and illegal detention, and for being set at liberty. In my opinion, whenever any person is wrongfully and illegally deprived of his liberty, it is open to anybody interested in the person to move this Court under Article 32 of the Constitution for his release. It may not very often be possible for the person who is deprived of his liberty to approach this Court, as, by such illegal and wrongful detention, he may not be free and in a position to move this Court.”

Right to Education

The case of *Unni Krishna v State of Andhra Pradesh* [19] involves a challenge to the constitutionality of state regulations governing capitation fees levied by private professional educational establishments. The highest court in the land has decided that the freedom given by Article 21 includes the right to education so long as it is considered in conjunction with the prescriptive policy outlined in Article 41. The court found that every citizen has the inherent right to get an education up to the age of 14, but this does not imply that every citizen has the inherent right to receive an education that leads to a higher professional degree. The legislation that has been declared by the Supreme Court is given force by Article 21A, which was added to the Constitution as Part III as a result of the 93rd amendment. In addition, the Supreme Court decided that “the provisions of Part III and Part IV are supplemental and complimentary to one another”, which means that a right does not need to be listed as a fundamental right in Part III of the Constitution for it to be considered to be one of those rights under the Constitution [20].

Right to Privacy

The right to privacy has evolved into its fundamental human right, alongside the right to life and freedom. In the case of *Justice K.S. Puttaswamy (Retd.) v. Union of India* [21] the court upheld residents' freedom of choice and right to personal privacy. The ancient idea of privacy, which was simply the “right to be left alone”, has been superseded by more modern conceptions of privacy. More recently, it has begun to take into consideration the ideas of spatial privacy and decisional privacy, which are also referred to as privacy of choice occasionally. It extends to the freedom to make basic personal decisions without unjustified intervention from the state, especially choices pertaining to intimate sexual activity.

Right to Speedy Trial and Right against Illegal Detention

In *Hussainara Khatoon v. Home Secretary, State of Bihar*, [22], the Supreme Court was made aware of the shocking number of people, including minors, who were languishing in jails for years without ever being brought before a judge. The Court took notice of the matter and expressed its concern that the justice system was being disgraced by the prolonged detention of innocent men and women in prison.

To avoid violating Article 21, the court here released all defendants who had been held in detention for longer than their probable punishment would have been had they been found guilty.

When an accused individual is detained, a fair and reasonable procedure must be followed by Article 21, guaranteeing that no one is held in violation of their rights. In the case of *Sunil Batra v. Delhi Administration*, the court ruled that a convicted criminal is nevertheless entitled to the protections outlined in Article 21 of the Constitution, despite being unable to exercise such protections while he is incarcerated. It was determined that even placing a prisoner in solitary confinement was against Article 21. In *D.K. Basu v. State of West Bengal*, the Supreme Court established rules for arrest and detention that must be observed by the appropriate authorities.

Freedom of Sexual Preference and to Choose a Life Partner

In the case of “*Navtej Singh Johar v. Union of India through the Secretary Ministry of Law and Justice*” [23], the Indian Supreme Court ruled that a portion of Section 377 of the Indian Penal Code was unconstitutional because it “violates the right to life and liberty guaranteed by Article 21 which encompasses all aspects of the right to live with dignity, the right to privacy, and the right to autonomy and self-determination concerning the most intimate decisions a human being can make.”

Article 21 of the Constitution guarantees every citizen the freedom to select his or her spouse, a right that the Supreme Court has upheld, and in the case of *Shakti Vahini v. Union of India* [24] authorities have been instructed to take all preventative measures available to them to put an end to honor murders and other crimes of a similar kind.

Right to Clean Environment

The environment and ecology have been damaged in several ways as a result of recent advances in science and technology. The proof is the worsening air and water quality, which can be seen as the harm increases.

In *Murli S. Deora v. Union of India* [25], no one who chooses not to smoke should be forced to tolerate second-hand smoke from smokers. Right to life might be jeopardized if they are exposed to second-hand smoke in a public location. Also, in the case of *Subhas Kumar v. State of Bihar* according to the ruling, Article 32 of the Constitution guarantees citizens the right to “resort to any available means to eliminate any water or air pollution that may be injurious to their health or the quality of their lives.”

It is also important to note that the court has moved in the direction of considering noise pollution a threat to human rights and held in the case of *In Re: Noise Pollution* [26] one has the right to speak, but others have the option to listen or not. No one has the right to force someone else to listen to him or to impose his will on their ears and minds. The right of others to a quiet, comfortable, and pollution-free living is violated if one raises his voice, especially with the use of artificial equipment, to compulsorily expose reluctant individuals to noise raised to uncomfortable or annoying levels. The right provided by Article 21 cannot be undermined by using Article 19(1)(a).

CONCLUSION, CRITICISM, AND SUGGESTIONS

The ‘natural rights’ are today more often referred to as the ‘right to life and the ‘right to personal liberty’. The Preamble to the Indian Constitution also recognizes the right to freedom as one of the

fundamental human rights toward which all other human rights must strive. As has been shown in previous sections, freedom is guaranteed by the Constitution or the basic charter of every nation. Given the importance of this right to the maturation of the human character, it must be expanded and strengthened beyond its current scope. The fact that most people are oblivious to the importance of protecting human life and individual freedom is one of the main obstacles that must be overcome today. These freedoms are implicit in the concept of “Liberty”, although they are not listed separately.

However, the greatest difficulty is in determining the full extent of its responsibility to inform the public about their rights under the concept of “personal liberty” and then carrying out that responsibility in a way that is both fair and effective. Loss of income would not only strip life of its usefulness and purpose but also render it unliveable. However, if the right to livelihood is not considered part of the right to life, then the method created by law would not allow for the deprivation of life in such a way.

Judicial activism is an additional obstacle that must be overcome. Despite this, a new regime of citizen rights and State duties, as well as new means for the State’s accountability have resulted from the establishment and adoption of public interest litigation (PIL). The purpose of PIL is to protect the rights of the marginalized. However, it became watered down and was used to impede the government’s ability to make choices on a variety of policy issues. It caused the judiciary to get more involved in the legislative process. Article 21’s structure is vague enough to be open to wide judicial interpretation. As a result, the significance of life and liberty is contingent on the other provisions of the Constitution, and Article 21 by itself is devoid of any form; “the Constitution is a body of flesh without a soul.” Because of this, the judiciary has become more influential, and judges have begun passing their laws via judicial activism. Laws issued in the court are susceptible to modification and may be overridden by later verdicts from another bench, which raises many concerns about the stability of the law. A further argument against judicial activism is that judges make decisions based on their preferences and interpretations of the law.

The philosophy of judicial activism that justifies the easy and ongoing willingness to set aside judgements of other branches of government is becoming utterly incompatible with confidence in democracy to the extent that it supports the view that judges should be permitted to repair the outcome of popular apathy. Since the meaning of freedom and life, the most fundamental human rights are within the purview of the judicial branch, and since “with great power comes great responsibility”, the court must uphold its responsibilities.

A court’s overreach in preventing abuse of power by the government reduces the effectiveness of that government. The legislative is responsible for enacting legislation, while the judiciary is tasked with ensuring that these laws are carried out effectively and equitably. Therefore, it is recommended that a balance be maintained between the responsibilities of these two entities such that the judiciary’s only responsibility is to provide interpretations of the Constitution and preserve its values. The function of providing checks and balances to the other arms of government must be fulfilled by the judiciary via judicial activism.

REFERENCES

1. Chairman Railway Board v. Chandrima Das, AIR 2000 SC 988.
2. Kharak Singh vs The State of U. P. & Others on 18 December, 1962 [Internet]. Indiankanoon.org. 2023 [cited 2023 Apr 20]. Available from: <https://indiankanoon.org/doc/619152/>.
3. Sunil Batra v. Delhi Administration, (1978) 4 SCC 409.
4. Ashwani Kumar v. Union of India and Ors., MANU/SC/1475/2018.
5. Maneka Gandhi v Union of India, AIR 1978 SC 597.
6. A. K. Gopalan v. State of Madras, AIR 1996 SC 1234.
7. Indian Const., art. 32(1).
8. Adrian Vasile Cornescu, the generations of human’s rights, 11 (2009).

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9. Senate.gov. (2022). U.S. Senate. [Online] Available at: https://www.senate.gov/pagelayout/general/one_item_and_teasers/file_not_found.htm.
 10. *Munn v. Illinois*, U.S. 113 (1876).
 11. Article 21: Right to Life & Livelihood - LawLex.Org, <https://lawlex.org/lex-bulletin/article-21-right-to-life-livelihood/3631>.
 12. *Maneka Gandhi v. Union of India*, 1978 AIR 597.
 13. *Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors*, 1981 AIR 746.
 14. *Id.* at 80.
 15. *P. Rathinam v. Union of India*, 1994 AIR 1844.
 16. *Gian Kaur v State of Punjab*, 1996 AIR 946.
 17. *Common Cause (A Regd. Society) v. Union of India*, Writ Petition (Civil) No. 215 of 2005.
 18. *Bandhua Mukti Morcha v. Union of India*, 1984 AIR 802.
 19. *Unni Krishnan v. State of Madhya Pradesh*, 1993 SCR 1594.
 20. *Id.*
 21. *Justice K.S. Puttaswamy (Retd.) v. Union of India*, Writ Petition (Civil) No. 494 Of 2012.
 22. *Hussainara Khatoon v. Home Secretary, State of Bihar*, AIR 1979 SC 1360
 23. *Navtej Singh Johar v. Union of India through the Secretary ministry of law and justice*, Writ Petition (Criminal) No. 76 of 2016.
 24. *Shakti Vahini v. Union of India*, 2018 (7) SCC 192.
 25. *Murli S. Deora v. Union of India*, AIR 2002 SC 40.
 26. *In Re: Noise Pollution*, Writ Petition (Civil) No. 72 of 1998.