

# Transformation of Right to Life through Judicial Intervention in India

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***Abstract***—The development of Article 21 (Right to Life and Personal Liberty) of the Indian Constitution is one of the most important aspects of the Indian Constitution and is primarily induced by the Supreme Court of India. This research examines how one of the shortest provisions in the Constitution has transformed in the duration of the seven decades, from a narrow, rigid, procedural safeguard to an ever-expanding provision of rights. At first, Article 21 was strictly interpreted. The courts have been considerably broad in the interpretation of Article 21 and have extended the Article through dynamic interpretation to include various rights such as dignity, the right to live and work, the right to receive free and compulsory education, the right to a speedy trial, the right to a pollution free environment, and the right to privacy. Adopting a qualitative, doctrinal approach, this study examines significant judicial interventions, spanning *A.K. Gopalan vs. State of Madras (1950)* and the constitutional transformation in *Maneka Gandhi vs. Union of India (1978)*. It assesses, beyond the formal contours of the Indian Constitution, the socio-economic judicial activism of *Olga Tellis (1985)*, *Hussainara Khatoon (1979)*, *Unni Krishnan (1993)*, and the pathbreaking privacy judgment, *Justice K.S. Puttaswamy vs. Union of India (2017)*. It is observed that the discussions on judicial activism and institutional overreach are extensive and ongoing. However, the reform-oriented judicial activism has been an important counter-majoritarian means of protecting the rights of the underprivileged and the marginalized, and a tool of realizing their right to a life of dignity. It is acknowledged that realizing these rights requires significant reforms in the fields of data protection, legal awareness, and the criminal justice/institutional system.

## I. INTRODUCTION TO JUDICIAL ACTIVISM AND THE RIGHT TO LIFE

### 1.1 Setting the Context and Meaning of Judicial Activism

Article 21 of the Indian Constitution reads: 'No person shall be deprived of his life or personal liberty except according to procedure established by law.' It is the briefest Article of the Indian Constitution, and yet, it is the most contested and cited Article of the Fundamental Rights. The approach of the Supreme Court has evolved from a conservative, text-bound approach to a

progressive approach, aligning with the contemporary socio-economic aspirations. In India, judicial activism pertains to an interpretive practice, whereby courts go beyond the literal text of the statutes. Through judicial activism, courts fill gaps left by the inertia of the legislature and the executive regarding the structure of the law. Professor Upendra Baxi has argued that activism of this nature has not emerged out of institutional ambition. Instead, it has directly resulted from the structural incapacity to deliver on the constitutional promise to the poor and the marginalized. Such activism has two structural aspects:

- Procedural Aspect: This pertains to the extensive liberalization of locus standi and the resulting emergence of Public Interest Litigation. This development has enabled NGOs, concerned citizens, and journalists to file litigation in the courts on behalf of those citizens who, for a variety of reasons, were unable to access legal representation.
- Substantive Aspect: This pertains to the flexibility of the constitutional text in order to align with the demands of the emerging values of human rights, and more specifically the contributions made by such great jurists as Justice P.N. Bhagwati and Justice V.R. Krishna Iyer.

### 1.2 The Constitutional Scheme and Dual Phases of Interpretation

One of the more significant structural elements of Article 21 is that, in providing a floor to protect dignity, it is universally applicable to everyone within Indian territory (both citizens and non-citizens). To deal with the Directive Principles of State Policy (DPSP) in Part IV (which are openly non-justiciable), the Supreme Court, for the first time, used Article 21 as a constitutional pivot to integrate socio-economic rights (especially housing, health and education) into the enforceable part of Part III (Fundamental Rights). This process of integration can be divided into two stages. The first stage is known as the Conservative Stage (1950-1977): This stage was characterized by a literal and mechanical perspective on Fundamental Rights, as was laid down in the famous case A.K. Gopalan. Rights were construed in a fragmented manner. The phrase 'procedure established by law' was held to apply with respect to a law which was enacted formally by the Parliament, and any question of the law's fairness or justice was completely negated.

The second phase is known as the Liberal Phase (1978-Present): This phase was initiated by the case of Maneka Gandhi, and was characterized by a more open and flexible approach demanded that any state procedure depriving liberty must be inherently 'just, fair, and reasonable.' This was the initial step toward the development of localized substantive due process.

### 2.1 Framing Skepticism and the Conservative Foundation

## II. EVOLUTION OF ARTICLE 21 – FROM A.K. GOPALAN TO MANEKA GANDHI

### 2.1 The Framing Skepticism and the Conservative Foundation

During the debates of the Constituent Assembly, Dr. B.R. Ambedkar, and the founding generation deliberately avoided the American term: 'due process of law' and preferred the expression 'procedure established by law.' Their major concern was that an unelected judiciary, empowered by open-ended substantive due process, would declare progressive and egalitarian socio-economic

reforms unconstitutional. For this reason, the first generation of Supreme Court judges, trained in the colonial, rigorous, and legal traditions, maintained this restrictive approach.

During the case *A.K. Gopalan vs. State of Madras* (1950), a prominent communist leader challenged the validity of his detention, which was conducted in accordance with the Preventive Detention Act. In this case, the Court firmly rejected an expansive interpretation and stated that ‘procedure established by law’ was synonymous with *lex* (law enacted by the State). The Court further claimed that if the Parliament complied with the legal formalities, the detention would be constitutional, no matter how the law would be in fact oppressive. Additionally, the Court ruled that the rights of Part III did not interact with each other, which meant that a law implementing Article 21 did not need to satisfy the reasonableness requirement of Article 19. This rigid application of the law limited the possibility of a strict control of human rights on State actions for almost three decades.

## 2.2 The Maneka Gandhi Revolution and the Golden Triangle

In *Maneka Gandhi vs. Union of India* (1978), the executive removed the petitioner’s passport under the Passports Act without an explanation, and this case dramatically modified the constitutional landscape. The state relied heavily on the Gopalan precedent, arguing the procedure was legally formal. The Supreme Court overwhelmingly rejected this argument, marking the beginning of the ‘second founding’ of personal liberty. The Court ruled that in the Passports Act case, the procedure could not be arbitrary, oppressive, or capricious. It must incorporate the principles of natural justice, and be “just,” “fair,” and “reasonable.” Most importantly, it broke the silo theory and held that Articles 14 (Equality), 19 (Basic Freedoms), and 21 (Personal Liberty) are indivisible. This became the famous “Golden Triangle” of the Indian Constitution. It meant that if the state wanted to limit personal liberty, it had to respect the non-arbitrariness of Article 14 and the reasonableness of Article 19. Most importantly, the case meant that ‘life’ is not a bare animal existence; it is the right to live with dignity and in a manner of one’s choosing.

## III. EXPANSION OF RIGHT TO LIFE THROUGH JUDICIAL ACTIVISM

### 3.1 Socio-Economic and Dignitarian Milestones

After the Maneka case, the Supreme Court had to refine and develop the application of the concept of human dignity to various social settings. Balancing the rights in Part III and the welfare-based provisions in Part IV, together with the guidance from international human rights instruments such as the UDHR and the ICCPR, the Court progressively recognized a series of rights through Public Interest Litigations. Some of these rights are as follows:

1. Right to Livelihood: The Court’s intervention in the mass eviction of informal settlers from Mumbai’s footpaths in *Olga Tellis v. Bombay Municipal Corporation*, (1985), popularly known as the ‘Pavement Dwellers Case,’ was on the ground that the right to life, in its broadest sense, incorporates the right to livelihood and that the right to life is of no meaning if the means of

livelihood of a person is taken away. The Court also directed that no such eviction should be carried out unless a reasonable opportunity to be heard was given.

2. Right to Human Dignity and Right Against Torture: In *Francis Coralie Mullin v. Administrator, UT of Delhi* (1981), which mainly dealt with the conditions imposed in the case of preventive detention, the Court held that the right to life includes the right to contact the family and allows the detainee to have reading materials and more, as dignity is more than life and existence. The above was also supported by *Sunil Batra v. Delhi Administration* (1978), which held that the fact that a person is in prison does not mean that he has given up all his rights and that he remains a dignified person.

3. Abolition of Bonded Labour: In *Bandhua Mukti Morcha vs. Union of India* (1984), the Court held that the exploitation and debt bondage of quarry workers fell within the sphere of the violation of Article 21. The Court, going beyond broad statements, prescribed extensive structural remedies and directed that the State should actively seek out, liberate, and rehabilitate bonded laborers.

4. Women's Dignity at Work: In *Vishaka case* (1997), after the gang rape of the social worker Bhanwari Devi, the Court dealt with an absolute legislative vacuum regarding the sexual harassment of women at the workplace. By invoking Article 21 and International Covenants, the court created the 'Vishaka Guidelines' which were later codified in the Act of 2013, thus providing a woman the right to a safe and harassment free workplace.

5. Right to a Clean Environment: In *M.C. Mehta vs. Union of India* (1987), a series of cases brought by Mehta, the Court, in the first of these cases, held that Article 21 guaranteed a clean and healthy environment, and that ecological degradation and damage to the environment pose a threat to the very existence of the people. In a break from traditional approaches, the Court held that in a situation where environmental pollution was caused by private actors, and a passive regulatory State, then a violation of the Right to Life would occur.

#### IV. SOCIO-ECONOMIC DIMENSIONS – LIVELIHOOD, EDUCATION, AND SPEEDY TRIAL

##### 4.1 Transforming Civil Liberties into Welfare Norms

The transformation of negative civil liberties (i.e., prohibitions of state interference) into positive welfare obligations occupies the center stage of modern Indian constitutional jurisprudence. Granville Austin identifies the reading of the DPSPs within the fundamental rights as one of the most creative elements of constitutionalism in the world. This shift in jurisprudential approach is evident in three fundamental rights in particular:

- Right to Education (From DPSPs to Justiciable Right): The Right to Education: Education originally existed in the DPSPs as a Directive Principle of State Policy (DPSP) in Article 45 in an aspirational form. The Supreme Court of India brought a paradigm shift in this area in *Unni Krishnan vs. State of Andhra Pradesh* (1993), when it ruled that the right to primary education of all children up to the age of fourteen years is a fundamental right, which can be derived from Article 21 (Right to Life and Personal Liberty) of the Constitution. The Court opined that without

basic education and without the basic skills of development, the child is unable to enjoy and exercise the other rights and liberties guaranteed by the Constitution. This judgment gave rise to the 86th Constitutional Amendment Act, 2002, which added Article 21A in the Constitution.

- Right to a Speedy Trial (The Crisis of Undertrials): While the Right to a Speedy Trial is officially a civil procedural right, in India, its application is intertwined with socio-economic status. In *Hussainara Khatoon vs. State of Bihar* (1979), a public interest litigation reports the case of a huge number of poor people, who were unable to afford bail or a lawyer, left to languish in pre-trial detention, of whom many had actually spent more time in Kafkaesque detention than the maximum punishment for the crime they were allegedly going to be convicted for. Denoting this was a violation of personal liberty, the Court Ordered the release of all such over-detained people, and declared that the Right to a Speedy Trial and the Right to Free Legal Services are to be provided by the State, are to be considered as part of the mandate of Article 21 of the Constitution, along with Article 39A.

- Right to Livelihood (Economic Interdependence): The Right to Livelihood, is a direct extension of *Olga Tellis*, linking structural economic survival with constitutional guarantees, compelling the State to address welfare and deprivation in a rights-based perspective.

## V. RIGHT TO PRIVACY AND CONTEMPORARY DIGITAL DEVELOPMENTS

### 5.1 Doctrinal Development and the Puttaswamy Landmark

The acknowledgment of the right to privacy under the aegis of Article 21 is a major breakthrough in contemporary public law. Privacy, unlike socio-economic claims, protects individual autonomy from the State and Corporates in an age of relentless and pervasive data. From a historical standpoint, it was a fragmented right. The earlier Supreme Court positions in *M.P. Sharma vs. Satish Chandra* (1954) and *Kharak Singh vs. State of Uttar Pradesh* (1963), were a clear refusal to acknowledge the existence of a stand-alone constitutional right to Privacy viewing it as outside the textual scope of Part III.

This outdated jurisprudence was definitively overturned with *Justice K.S. Puttaswamy vs. Union of India* (2017). This case was a direct challenge to the Aadhaar project, which was a massive biometric program that sought to collect fingerprints and iris scans from over a billion people. Critics of the program said it created the foundation of a surveillance state. In response to the government's contention that there was no fundamental right to privacy, a unanimous nine-judge bench established the right to privacy as an inviolable Fundamental Right as per Article 21.

This judgement was landmark as it established privacy as an integral component of a dignified and autonomous existence. It recognized with respect to the right of privacy constitutional space. It was significant that the Court noted that the right is not absolute and can be circumscribed by strict tests.

## 5.2 The Three-Pronged Proportionality Test

In response to the possibility of arbitrary state action, the Puttaswamy Court coined a rigorous, mandatory tri-partite test that drew on European and Canadian jurisprudence. This test must be satisfied to justify any state action that violates the right to individual privacy.

1. **Legality:** The State action must be provided for in a formal law.
2. **Necessity:** The aim of the limitation must be a legitimate and compelling state interest (for example, national security or public order).
3. **Proportionality:** The State action must be the least of the limiting measures and must be in balance with the interest being sought.

Against the backdrop of modern digital society, this should be a standard in relation to the invasive technologies of facial recognition, digital footprint monitoring, and mobile metadata monitoring. It is claimed that following this decision, a genuinely strong, independent, and judicially reviewable oversight mechanism does not exist, and as a result, the widespread application of modern technologies for purposes of surveillance and monitoring has not been curbed.

## VI. CONCLUSION AND SUGGESTIONS

### 6.1 Basic Findings from the Research and Related Structures

This research finds the following three central ideas. First, as a result of the deep-seated inequalities in the Indian context, the historic evolution of Article 21 reflects, in a limited way, the transformation in a post-colonial democracy. The historic development of Article 21 is characterized by the following three key elements:

- The evolution was not arbitrary and did not stem from the personal judicial philosophy, but was developed in response to systemic social injustices brought about by public interest litigations.
- The concept of human dignity is the moral and legal basis, which is the integrative framework of increasing rights, and links the diverse cases.
- The rapid growth of rights has accentuated the structural imbalance of the orthodox separation of powers in the system of post-colonial India.

Unresolved tensions of an institutional nature are the result of the exercise of unrestrained judicial power, and the severe criticism of the significant gulf between the rights that are guaranteed and the actual realization of those rights. To balance judicial activism with the necessary restraints, this research recommends moving away from judicial decision making based on subjective atmosphere and using as a guide the Puttaswamy proportionality test, which is an appropriate legal tool.

### 6.2 Comprehensive Policy Suggestions

This report recommends eight distinct policy suggestions to make expanded constitutional guarantees a reality.

1. **Legal Literacy and Awareness:** Governments, universities, and civil society should partner to launch literacy campaigns to translate Article 21 rights into plain regional languages and increase access to local resources.
2. **Judicial Infrastructure Reform:** Specialized fast-track courts should be established in response to the labor rights violation of the right to a speedy trial.
3. **Comprehensive Data Protection Legislation:** An independent data protection authority should be established in parliament with protections for civil remedies for the enforcement of privacy rights in the case of Puttaswamy.
4. **Systemic Prison Reform:** Independent monitoring of prisons and inquiry into custodial deaths is a violation of the human rights standards established in the cases of Sunil Batra and Sheila Barse.
5. **Environmental Law Enforcement:** Develop enforcement agencies' operational capacity and independence for the national green tribunals. Bring greater enforcement and strict transparency to Environmental Impact Assessments.
6. **Universalizing Quality Education:** Address the acute implementation deficit of Article 21A with solutions to the chronic absence of teachers and the gaps in the rural school infrastructure, public schools, and private schools.
7. **Protection of Marginalized Communities:** Focus welfare legislation to the target population of bonded labor, women in the informal sector, and displaced pavement dwellers so they will be the bulk of beneficiaries.
8. **Balancing Institutional Functions:** Understand the judiciary is not the sole answer to all failures of governance. Sustainable social change recognizes the need for the legislature and executive to create robust administrative systems for the fulfillment of the constitutional provisions articulated by the judiciary.

#### Final Conclusion:

The historical account of Article 21 denotes the dynamic and evolving nature of the Indian Constitution. The rights contained in the Constitution are dependent on the will of the administrators and the political will. It is our responsibility to make sure these rights are actualized in the routine governance and not only in path-breaking decisions by the judiciary.