



Jurisprudential Analysis of the Right to Life in the Indian Constitution: Exploring the Essence

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Abstract: The Indian legal system, viewed comprehensively, stands as a testament to human advancement and respect. This essay underscores the imperative of scrutinizing the court's methodologies to enhance the protection of human rights. Emphasizing the pivotal moment to educate on human rights and cultivate a legal culture, it contends that Article 21 of the Indian Constitution, affirming the right to life and personal liberty, gains fortified protection through the judiciary's expanded locus standi. Noteworthy is the court's judicious and reformative approach, meticulously analysing present circumstances and potential harm before proposing remedies. However, the article laments the diminishing scope for a broad interpretation of Article 21's "life" and "liberty" clauses. Public interest petitions have surfaced, addressing concerns like special treatment for incarcerated children, shielding them from harm and pollution, ensuring timely medical aid, preventing starvation-induced deaths, and enhancing conditions in after-care facilities. These efforts collectively aim to infuse purpose into life, transcending mere existence.

Keywords: Rights, Judiciary • Life • Constitution • Dignity.

Introduction

Respect for human dignity, the protection of substantive rights, and the steady advance of civilization are all components of a system of law that works as it should. An order based on the rule of law cannot persist in a society that lacks justice. Acknowledging and protecting individual freedoms and rights. The foundation of a democratic system is the guarantee of individual rights coupled with the general protection of all human rights. All of them are put at risk when one is violated. The paper's main point is that human rights must be addressed on a worldwide scale. Terrorism, organised crime, and human trafficking are modern challenges that governmental institutions throughout the globe must contend with. The court administration, armed with modern technical advancements, can efficiently deal with these offences, allowing the system to expand and successfully

protecting all parties engaged in the legal procedures.

Improve the judiciary's performance in protecting human rights by paying specific attention to the instruments and processes. Training in human protecting individual rights while fostering a culture of law are urgently required if we are to safeguard fundamental rights and prevent the exorbitant fees and lengthy delays that deprive the most disadvantaged people of access to justice.

Protecting the judiciary's autonomy is crucial because it allows all people to fully realise their inherent worth and exercise their equal and inalienable rights. The independence of the judiciary and the arbitrary nature of its decisions must be well-balanced in any system of justice. Democracy in the modern era has benefited greatly from the authority of judicial review to uphold the Constitution. In this age of democracy, the court has been crucial in preserving human rights. Some examples of



constitutional interpretations that have ensured the preservation of human rights include the Military Justice Act, the Power of Detention, the Gangster Prevention Act, and sufficient protection of personal freedom under unusual situations.

As a result of globalisation, our legal system must increasingly adopt an international perspective. When it comes to safeguarding human rights, it must be on par with wealthy countries. Due to the inaction and indifference of the legislative and executive branches, the court is called upon to step in and safeguard human rights. Human rights are not handouts from the government, as Soli Sorabjee points out. It is not the constitutions that make them. Human rights, which exist independently of constitutions and laws, are the reason for their enactment. An impartial and independent court is crucial to preserving and advancing human rights, which is the central claim of this article. The Constitution of India represents its ideological philosophy and ideals promised by its Preamble to secure to all its citizens - Justice, Liberty, Equality, Fraternity etc.

The jurisprudence woven around the Preamble to our Constitution is multi-dimensional. The Constitution is a Fabian socio-economic instrument with a revolutionary thrust. The Preambular guarantees summarise the human rights problem that is inherent to Indian people because of the Constitution.

The Preamble has been used to strengthen the *socialist* goal as founding faith of the Constitution (*D.S. Nakara AIR 1983 SC 130*). In a socialist state, eradicating economic, social, and cultural disparities would be the priority. Providing working people with a good quality of living and, more specifically, security from birth to death, is central to socialism. This envisioned a fair distribution of wealth and equality. This leans more toward Gandhian socialism than Marxism; it is a hybrid of the two ideologies.

Civil and Political rights in the Indian Constitution

Part III examines how the Fundamental Rights reflect the ICCPR's principles, and Part IV examines these concepts via the Preamble's lens., the economic and social issues of the ECOSOC Covenant become clear. Dignified responsibilities in Part IV-A expand on ecological and environmental justice, gender equality, and shared fraternity. The same holds true for humanism and the defence of human dignity; it is the alert basic obligation of every citizen of India. The highest court in India has always upheld these principles as the foundation of the country's government.

Its goal is to build the welfare state in a society free from prejudice of any type. A person's basic liberties are protected by the Constitution under Article III. that cannot be disregarded or trampled upon. Finally, the analysis of these rights falls within the domain of the judiciary whereas Part IV enshrines certain directives, which are not enforceable in the Court of law but are fundamental in the governance of the country. In a democratic polity, good and effective governance depends upon the three organs of the government, namely, the legislature, the executive, and the judiciary.

The concept of civil liberties and human rights occupies a significant place in a civilized society. Even the Indian National Movement strove to uphold these liberties and rights, which became instrumental in overthrowing British imperialism. The non-representative character of the British Government compelled the Indian leadership to the extent of preparing a National Constitution in 1928, recommending the declaration of Fundamental Rights, a parliamentary system of government, adult franchise, and an independent judiciary (Chandra 2000: Human Rights Activism and role of NGO's. Rajat Publications, New Delhi, p. 53). The most important achievement was the fight for ensuring civil liberties and human rights by our National Movement, which Mahatma Gandhi held that we must defend the



elementary rights such as free speech and free association (Chandra 2000, op cit).

The Human Rights heritage of India, in its modern verbal apparel, may be traced to the Constitution of India, which marks the watershed in this sublime branch of jurisprudence. The Charter of the United Nations (1945) and the Universal Declaration of Human Rights (1948) influenced the drafters of our Constitution. Mahatma Gandhi and Jawaharlal Nehru and many other legendary leaders like Dr. Ambedkar had a vision of a free nation where the humblest had fundamental freedoms-social, economic and political-like the highest and the wealthiest. Such rights have been included in the Parts III and IV of the Indian Constitution and have been accorded a significant place in our Constitution to establish an order based on ensuring the welfare of all with the enactment of laws to give effect to directive principles of state policy. The directives are intended to build the edifice of the welfare state. The environment and its preservation are a subject matter of both. Protection of the environment is a matter of constitutional priority. Its neglect is an invitation to disaster. Entitlement to a clean environment is one of the recognized basic human rights (*V. Lakshmi pathy v State of Karnataka* AIR 1992 Karnataka 57 at 66 and 67).

In our Democratic Socialist Republic, independent judiciary is necessary to maintain the perfect equilibrium between the liberty of the individual and the power of the State. Under Article 32, the Supreme Court has the power to issue orders, writs for the enforcement of fundamental rights enshrined in the Indian Constitution. Similarly, the High Courts have the power under Article 226 to issue any order and writ. In this regard, the power of the High Courts is wider than that of the Supreme Court.

The Constitution of India provides in the right to life that “No person shall be deprived of his life or personal liberty except according to

procedure established by law.” A person can be deprived of his right to life and liberty only according to the procedure established by law. The judicial consideration regarding the procedure established by law started in 1950 in the case of *A.K. Gopalan v State of Madras* in which the Court was divided while interpreting the expression ‘*procedure established by law*’ involving and pointing to the procedure enacted by the Legislature and the application of due process clause of the US Constitution. The judiciary has evolved various principles from case to case.

Human Rights Jurisprudence: An active Court

Activist role of the Court in the sphere of human rights has been facilitated largely by the public interest litigation such as the rights of detenu and under trials, police excesses including arbitrary arrests, custodial violence and extra-judicial killings, conditions in prison and other custodial institutions like children’s homes, women’s homes, mental asylums, encounter killings in Punjab, and the rights of victims of crime (Desai and Muralidhar in B.N. Kirpal et al. eds. (2000).

In the infancy of the public interest litigation, the rights of the prisoners and the conditions of the prisons were in focus whereby the Courts acted on postcards, letters, news items, petitions from public-spirited persons, including lawyers and journalists. The Court also undertook the task of giving directions to the state agencies to put an end or at least minimize the violations of human rights.

Hussainara Khatoon’s case (*Hussainara Khatoon v State of Bihar* (1968) focused issue on of under people trials in Bihar who had been detained pending trial for periods far more than the maximum sentence for the offences they were charged with. The right to speedy trial was the main concern to issuing an order of general release of the under trials.

In a historic verdict in *D.K. Basu v State of West Bengal*, the Court acted upon a letter in 1986 laid down the procedure to be followed



by the police on the arrest of a person (*Quoted in n.6*). It further mandated that a relative of the arrested must be promptly notified and that police stations must display the basic rights available to a detainee. The Court made it clear that failure to comply with this direction would be punishable as contempt of the Court (*Hussainara Khatoon v State of Bihar, op cit*). During militancy in Punjab, there were many instances of encounter killings, some of which came under the judicial scrutiny. In 1991, the Court directed the investigation of the encounter killings in Pilibhit by the Central Bureau of Investigation (*R.S. Sodhi v State of UP* (1994) quoted in *Hussainara Khatoon v State of Bihar, op cit*).

In *Delhi Domestic Working Women's Forum v Union of India*, the Court dealt with the rape of innocent tribal girls by Army jawans in a moving train between Ranchi and Delhi and ordered an ex-gratia payment of Rs. 10,000 to each of the victims. The Court recognized the trauma of rape victims and set out the parameters for providing legal assistance to them at various stages.

Right to life in human rights Jurisprudence in India

The basic human rights, like the right to life, personal liberty and procedure established by law under Article 21 hardly found any importance in mid-seventies. The role of court was restricted concerning the cases relating to arrest and illegal detentions as such functions were treated as sovereign functions. The Courts under Articles 226 and 32 respectively had only limited jurisdiction of provide relief to the victims. The court in this regard followed a narrow interpretation. Until recently, the concept of personal liberty under Article 21 has been a point of discussion. The Indian judiciary resorts to several steps to include human rights jurisprudence into the fold of the Indian Constitution through Article 21.

Article 21 requires that no one shall be deprived of his life or personal liberty except

by procedure established by law and this procedure must be reasonable, fair, and just and not arbitrary, whimsical, or fanciful. The law of preventive detention has therefore now passed the test not only for Article 22, but also of Article 21 and if the constitutional validity of any such law is challenged, the court would have to decide whether the procedure laid down by such a law for depriving a person of his personal liberty is reasonable, fair, and just. In another case of *Olga Tellis and others v. Bombay Municipal Corporation and others*, it was further observed that a mala fide act has no existence in the eye of law.

It becomes significant in underlying the philosophy of Article 21 is that no person shall be deprived of his life or personal liberty except following the procedure established by law. Since the implementation of the Constitution, this article has been interpreted in variety of ways. The courts are entrusted with the power as well as duty to interpret law for the protection of the basic and fundamental rights dealt with in the Constitution. There are certain areas requiring restraint on the state action where the chances of abuse and misuse are obvious. In this situation, the positive action of the state is necessary. All these circumstances are essential for the judiciary to consider in the interpretation of the constitutional provisions.

In *Maneka Gandhi v Union of India* case (AIR 1978 SC 597), the Court held that the right to life and personal liberty can be infringed only by a just, fair, and reasonable procedure, which amounts to the right to live with human dignity. The court took affirmative steps as a protector and guarantor of fundamental rights while directing the state to comply with its obligation of providing free legal aid to poor and the vulnerable to have access to justice as dealt with in Article 39 (A). To provide relief through the writ jurisdiction, the judiciary at the higher level initiated bold steps for the promotion of human rights jurisprudence. The attempt was to prevent the executive from



playing with the rights of the citizens, which would make them responsible in the discharge of their duties while guarding the rights of fellow citizens. The development in the rights jurisprudence made the judges to think that the Constitution is an organic document subject to develop with the passage of time and requirements and it must be interpreted keeping in view the protection of the constitutional values to strengthen human values. It is emphasized in this paper that dignity, health and hygiene, education, shelter, and other facilities for the development of body, mind and soul are implied in the right to life.

In *Vikram Deo Singh v State of Bihar* (AIR 1989 SC 549, para 13), Chief Justice Pathak observed that “We live in an age when this Court has demonstrated, while interpreting Article 21 of the Constitution, that every person is entitled to a *quality of life consistent with human personality*. The right to live with human dignity is the fundamental right of every Indian citizen. The State recognizes the need for maintain establishments for the care of those who are the castaways of an imperfect social order for whom, therefore, of necessity, provision must be made for their protection and welfare.” It is true that life in its expanded horizons today includes all that give meaning to a man’s life including, his tradition, culture and heritage, and protection of that heritage in its full measure would certainly come within the encompass of an expanded concept of Article 21 of the Constitution (*Ramsharan v Union of India* AIR 1989 SC 549; Justice Sabyasachi Mukherjee).

In *Kehar Singh v Union of India* (AIR 1989 SC 653.), the court held that to any civilized society, there can be no attributes more important than the life and personal liberty of its members. That is evident from the paramount position given by the Court to Article 21 of the Constitution. These twin attributes enjoy a fundamental ascendancy over all other attributes of the political and

social order, and consequently the Legislature, the Executive and the Judiciary are more sensitive to them than to the other attributes of daily existence.

In *State of Himachal Pradesh v Umed Ram*, the Supreme Court provided expansionist interpretation to right to life under Article 21 of the Indian Constitution and held that the right to life embraces not only physical existence but the quality of life as understood in its richness and fullness by the ambit of the Constitution; and for residents of hilly areas, access to road is access to life itself, and so, there should be road for communication in reasonable conditions in view of our constitutional imperatives.

In *Mohini Jain’s* case, the court pointed out that right to life is the compendious expression for all those rights, which the courts must enforce because they are basic to the dignified enjoyment of life. It extends to the full range of conduct, which the individual is free to pursue. The right to education flows directly from the right to life. The right to life under Article 21 and dignity of an individual cannot be assured unless the right to education accompanies it.

In *Olga Tellis* case, the right to shelter was held as a part of the right to life. It was further expressed that no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life.

Justice Sawant in *Delhi Transport Corporation case (Delhi Transport Corporation v D.T.C. Mazdoor Congress* AIR



1991 SC 101) emphasized that the right to life includes right to livelihood. The right to livelihood, therefore, cannot hang on to the fancies of individuals in authority. The employment is not a bounty from them, nor can its survival be at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental. Fundamental rights can ill-afford to be consigned to the limbo of undefined premises and uncertain applications. That will be mockery of them.

It is emphasized that the State is not mandated to hamper facilities necessary for securing livelihood. The objective realities directed towards the attainment of the goal of socio-economic revolution are implicit in the Directive Principles. An activist Court may insist upon implementation of the right to work through projects, which are fair and reasonable and may interdict clamorous projects catering to the luxury of the rich and withdrawing the right to bread from numberless indigents.

The right to education got a wider interpretation in *Unnikrishnan (Unni Krishnan v State of A.P. AIR 1993 SC 2178)* case relying on the principle that while interpreting Article 21 the court should be able to expand the reach and ambit of the fundamental right and thus it was held that the right to receive education up to the primary stage is a part of the right to life under Article 21 of the Constitution. In *P. Rathinam (P. Rathinam v Union of India AIR 1994 SC 1852.)* case, the Court held that “the right to live with dignity... takes within its fold some of the fine graces of civilization which make life worth living and that the expanded concept of life would mean the tradition, culture and heritage of the person concerned.”

Conclusion

Thus, the right to life embraces not only physical existence but requires the quality of

life as well. Several rights have been made the part of the right to life such as the right to education, right to go abroad, right to privacy, right to free legal aid, right against solitary confinement, right to speedy trial, right against handcuffing, right against delayed prosecution, right against custodial violence, right to shelter etc. The Supreme Court of India has recognized all such rights within the ambit of the fundamental rights while providing expansive interpretation to the right to life under Article 21.

After *Mohini Jain and Unnikrishnan*, education is regarded within the purview of the right to life. It is held that education is enlightenment. It lends dignity to a man and if right to live means right to live with dignity, the word ‘life’ must take within its fold the right to education. *Maneka Gandhi* has been a landmark case of the post-emergency period which depicted the liberal tendencies which influenced the apex court in the matter of interpretation of fundamental rights, particularly the Article 21. It has brought about great transformation in the attitude of judiciary towards the protection of personal liberty after the traumatic experiences of emergency during 1975 – 77 when personal liberty reached at its peak which became clear from the verdict pronounced in *Shukla* case. This case showed that interpretation in *Gopalan* could not play an effective role in the protection against any harsh law seeking to deprive a person of his life or personal liberty. In 2009, the court held that fairness, justice, and reasonableness constitute the essence of guarantee of life and liberty epitomized in Article in Article 21 of the Constitution (*Rameshbhai Chandubhai Rathod v State of Gujarat, 2009 5 SCC 740*).

The Indian judiciary has enlarged the ambit of *locus standi* while entering in those areas where the right to life is affected due to the threatened ecological balance while launching the right to clean and healthy environment against the environmental hazards. It has



significantly led to the expansion of the human right to life and personal liberty in Article 21 of the Constitution. Study of the judicial pronouncements reveals that the judiciary followed reformatory and cautious strategy while giving way to the exploration of alternates by going through the study of the prevalent conditions and possible damages likely to be caused.

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