

Article 21 of Indian Constitution, List of Rights, Amendments

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Article 21 of Indian Constitution is one of the most powerful provisions in Part III of the Constitution of India. It protects the core of human existence by guaranteeing life and personal liberty against arbitrary State action. Originally adopted as Draft Article 15 in 1948, it was debated on 6 and 13 December 1948 in the Constituent Assembly.

The framers deliberately retained the phrase “procedure established by law” instead of “due process.” After adoption on 13 December 1948 without amendment, it became Article 21 in the Constitution of 1950.

Article 21 of Indian Constitution

Article 21 of Indian Constitution states: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” It applies to citizens and non citizens alike. The right can be invoked only against the State as defined under Article 12. Initially interpreted narrowly in *A.K. Gopalan*, it later acquired expansive meaning through judicial interpretation. The Supreme Court transformed it from a procedural safeguard into a substantive guarantee by insisting that any law affecting life or liberty must follow a just, fair, and reasonable

procedure consistent with natural justice.

Rights under Article 21 of Indian Constitution

Article 21 of Indian Constitution has evolved into a source of multiple derivative rights ensuring dignity and fairness.

- **Right to Live with Human Dignity:** In *Maneka Gandhi*, the Court clarified that life means more than animal existence and includes living with dignity, fairness, and freedom from arbitrary or oppressive legal procedures.
- **Right to Livelihood:** In *Olga Tellis*, pavement dwellers were held entitled to livelihood protection, as eviction without alternatives would destroy survival, linking livelihood inseparably with the right to life.
- **Right to Reputation:** In *Subramaniam Swamy v Union of India*, reputation was declared an integral part of dignity under Article 21, and criminal defamation under Section 499 IPC was upheld to protect social value.
- **Right to Healthy Environment:** The Court recognized that hygienic atmosphere, ecological balance, clean air, water, and sanitation are essential for meaningful life under Article 21.
- **Noise Free Environment:** In *Re Noise Pollution*, sound at public boundaries cannot exceed 10 dB(A) above ambient standards or 75 dB(A), whichever is lower, protecting health.
- **Right against Custodial Violence:** In *D.K. Basu*, detailed arrest guidelines were mandated, declaring torture or degrading treatment during detention unconstitutional under Article 21 safeguards.
- **Right to Speedy Trial:** In *Hussainara Khatoon*, prolonged undertrial detention was held unconstitutional. Speedy trial applies to investigation, inquiry, appeal, revision, and retrial stages.
- **Right to Free Legal Aid:** In *M.H. Hoskot*, the Court ruled that free legal assistance for indigent accused is a State duty and part of fair procedure.
- **Right to Fair Trial:** Presumption of innocence, impartial judges, and unbiased proceedings were recognized as implicit requirements of just procedure under Article 21.
- **Right to Bail:** Though bail is governed by CrPC Sections 436 to 450, arbitrary denial affecting liberty must satisfy fairness under Article 21 standards.
- **Right to Travel Abroad:** In *Satwant Singh* and later *Maneka Gandhi*, impounding passports must follow reasonable procedure respecting personal liberty.
- **Right against Illegal Detention:** *Joginder Kumar* required police to inform relatives of arrest, ensuring transparency and preventing secret detention abuses.
- **Prisoner Rights:** Even convicts retain Article 21 protection. In *Sunil Batra*, prison conditions must respect dignity, health, and humane treatment.
- **Right to Privacy:** In *K.S. Puttaswamy 2017*, privacy was declared intrinsic to life and liberty, subject to legislative backing, legitimate aim, and proportionality test.
- **Telephone Privacy:** In *PUCL*, interception under Section 5(2) Telegraph Act requires procedural safeguards to prevent arbitrary intrusion into private conversations.
- **Reproductive Rights:** In *Devika Biswas*, unsafe sterilization practices were held to endanger health and reproductive autonomy under Article 21 protections.
- **Sexual Orientation Protection:** In *Suresh Kumar Koushal* and later developments, sexual orientation was linked to dignity and equality under **Articles 14**, 15, and 21.

- **Transgender Identity Rights:** In NALSA 2014, self identified gender was recognized, ensuring dignity, medical care, and equality safeguards under Article 21.
- **Disclosure of Disease Exception:** In Mr X v Hospital Z, privacy was balanced with partner's right to health when HIV status disclosure served public interest.
- **Right to Shelter:** The Court acknowledged shelter as part of meaningful life, ensuring existence with comfort, privacy, and minimum civic amenities.
- **Right to Die with Dignity:** In Common Cause 2018, passive euthanasia and living wills were permitted under safeguards, recognizing dignity at terminal stages.
- **Suicide and Mental Health Protection:** Section 309 IPC remains valid after Gian Kaur, but **Mental Healthcare Act 2017** reduces criminal consequences and ensures dignity.
- **Death Penalty Safeguards:** In Bachan Singh, death penalty limited to rarest of rare; expanded life imprisonment without remission emerged in Swami Shraddhananda.
- **Protection from Public Execution:** The Supreme Court stayed public hanging in 1985 Rajasthan case, holding barbaric methods violate Article 21 fairness.
- **Protection during Emergency:** After the **44th Constitutional Amendment 1978**, enforcement of Article 21 cannot be suspended even during Emergency under Article 359.

Case Laws related to Article 21 of Indian Constitution

Judicial interpretation transformed Article 21 into the Constitution's living core.

- **A.K. Gopalan v State of Madras 1950:** Adopted narrow view, treating personal liberty as physical freedom and accepting legislature enacted procedure without substantive fairness review.
- **R.C. Cooper v Union of India 1970:** Overruled compartmental approach, holding that fundamental rights overlap, expanding personal liberty beyond isolated interpretation.
- **Kharak Singh v State of UP 1963:** Struck down domiciliary visits as unconstitutional intrusion, broadening personal liberty against surveillance without valid law.
- **Maneka Gandhi v Union of India 1978:** Introduced fairness doctrine, holding that procedure must be just, fair, reasonable, and consistent with Articles 14 and 19.
- **Hussainara Khatoon v State of Bihar 1979:** Recognized speedy trial as essential element of liberty and allowed enforcement through **Articles 32** and 226.
- **Sunil Batra v Delhi Administration:** Affirmed that prisoners retain dignity and protection against inhuman treatment within correctional institutions.
- **Olga Tellis v Bombay Municipal Corporation 1985:** Connected right to life with survival means, preventing arbitrary eviction of economically vulnerable citizens.
- **Vishaka v State of Rajasthan 1997:** Held workplace sexual harassment violates dignity and life, issuing binding guidelines before statutory law existed.
- **K.S. Puttaswamy v Union of India 2017:** Nine judge bench unanimously declared privacy fundamental, laying three fold test of legality, necessity, proportionality.
- **Common Cause v Union of India 2018:** Recognized advance directives and passive euthanasia with medical board oversight and 48 hour decision requirement.

- **D.K. Basu v State of West Bengal**: Framed arrest and detention safeguards, requiring documentation and accountability mechanisms.
- **Bachan Singh v State of Punjab**: Upheld capital punishment constitutionality but confined it to exceptional circumstances guided by judicial discretion.

Amendments related to Article 21 of Indian Constitution

Constitutional amendments reinforced the protection of life and liberty under Article 21 of Indian Constitution.

- **44th Constitutional Amendment Act 1978**: Modified Article 359 to ensure that the right to life and personal liberty cannot be suspended during Emergency.
- **86th Constitutional Amendment Act 2002**: Inserted Article 21A, mandating free and compulsory education for children aged 6 to 14 years.
- **Right to Education Act 2009**: Enacted pursuant to Article 21A, operationalizing State duty to provide elementary education nationwide.

Euthanasia

Euthanasia means intentionally ending a person's life to relieve unbearable suffering, usually in cases of terminal illness. In India, passive euthanasia was permitted by the Supreme Court in Common Cause 2018 under Article 21, recognizing the right to die with dignity, subject to strict medical safeguards and advance directives.

Procedure Established by Law

Procedure established by law means that a person can be deprived of life or personal liberty only according to a law validly enacted by the legislature. The Constituent Assembly chose this phrase over due process to maintain parliamentary supremacy, while courts later required the procedure to be fair, just, and reasonable.

Due Process of Law

Due process of law means that a law must be substantively fair, reasonable, and just, not merely formally valid. Although not originally adopted in Article 21, the **Supreme Court** in Maneka Gandhi 1978 introduced due process principles, ensuring that any procedure affecting life or liberty must satisfy fairness and non arbitrariness.

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