



**ARTICLE 21: A COMPREHENSIVE STUDY**

**Edited By:**

**1) Saumya Tripathi**

(Editor)

[Saumya.judicateme@gmail.com](mailto:Saumya.judicateme@gmail.com)

+91 9044382618

**Publisher Details:**

**1) Saumya Tripathi**

+91 9044382618

Address: Lucknow

Email Address: [Saumya.judicateme@gmail.com](mailto:Saumya.judicateme@gmail.com)

**2) Ravikiran Shukre**

+91 9561735023

Address: Ahmednagar

Email: [ravikiran.judicateme@gmail.com](mailto:ravikiran.judicateme@gmail.com)

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*By, Shreya Shukla*  
*From, Galgotias University*

**ABSTRACT**

The drafting committee and also the framers of the Indian Constitution took basic Rights of voters of India terribly seriously and incorporated basic Rights partly third of the Constitution. They were extremely influenced by Article nine of the Universal Declaration of Human Rights, 1948 that provides for ‘protection of life and private liberty’ and that they adopted terribly similar provision as basic Right of life and private liberty beneath Article twenty-one of Indian Constitution. the basic Right of life and private liberty beneath article twenty-one, that is enforceable against the state, is sure to each individual whether or not that person could be a national of India or a non- national. This paper aims at dealing each facet and component that's associated with Article twenty-one, that is, right to life and private liberty.

It is a really renowned incontrovertible fact that law-makers (state and union) has the only power to create laws. However, the facility of creating laws isn't absolute and is subject to judgment by the judiciary. The judiciary keep a check whether or not the law created by the law-makers violates any provision of the constitution and if found violating, the law is said ultra vires or invalid by the judiciary.

While it's terribly clear that rendering has been exaggerated within the twentieth century, we are able to conjointly observe however inventive the judiciary has become recently within the case of interpretation of Article twenty-one in range of how attainable.

According to Article 21- “no one shall be bereft of his life or personal liberty except consistent with procedure established by law.” Right to life and private liberty is taken into account the foremost vital and central basic Right of all different rights out there to a personal. All different rights return when this basic right of a personal because it is critical for him for his terribly own existence.

*Keywords- Article, Constitution, Judiciary*

## INTRODUCTION

The term 'life' in Article twenty-one isn't the mere animal existence. Article twenty-one has been taken wide by the judiciary in order that it should embody each different right that makes lifetime of a personal meaning, complete, dignified and price living.

All the weather that square measure associated with Article twenty-one square measure mentioned on an individual basis below:

### 1. Right to Life and Euthanasia:

Right to life beneath Article twenty-one doesn't embody Right to Die. Right to Life could be a natural right. Now, the question regarding Right to Die initial time came before Mumbai judicature in State of geographic area v. Maruty Sripati Dubal 1987 Cri LJ 743. And here throughout this case court declare that Right to Life includes Right to Die, therefore making Section 309 of Indian legal code, 1860 that creates committing suicide as punishable offence, unconstitutional. However, the Supreme Court in Gian Kaur v. State of geographic region (1996)2 SCC 648, command that Right to Life doesn't embody "Right to die" or "Right to be killed".

Thus, attempting to kill is punishable offence beneath section 309 of Indian legal code, 1860 and it's not unconstitutional. Article 21, Right to life, of Indian Constitution, might be a natural right however right to die is not a natural right and no-one encompasses a right to finish their life in any unnatural suggests that. Even in India, whether or not it's a Voluntary killing, Involuntary putting to death or Non-Voluntary killing, regardless of the case is also is not acceptable and is prohibited here and it is a punishable offence beneath Indian legal code except the passive putting to death. an issue might arise, just in case of a dying man, who is, seriously sick or has been plagued by virulent and incurable sort of illness he is also permissible to terminate it by a premature extinction of his life in those circumstances.

- Legality of Euthanasia in Other Countries:

In Australia self-destruction was legal for an amount, however now could be not. In 1995, the world's initial killing legislation, the Rights of the Terminally Sick Act 1995, was passed within the Northern Territory of Australia. Four patients died beneath the Act, employing a killing device designed by Dr. Philip Nitschke. The legislation was

turned by Australia's Federal Parliament in 1997. In response to the overturning of the Act, Dr Nitschke supported Exit International.

In the France, the conflict over legalizing killing and medico self-destruction isn't as huge as within the u. s. as a result of the country's well developed hospice care program. However, in 2000 the conflict over the uncontroversial topic was enkindled with Vincent Humbert. when an automobile crash that left him unable to run, see, speak, smell or style, he used the movement of his right thumb to put in writing a book, "I raise the proper to Die (Je Vous Demande lupus Droit Delaware Mourir)" during which he voiced his need to die de jure. when his charm was denied, his mother power-assisted in killing him by injecting him with AN o.d. of barbiturates that place him into a coma, killing him two days later. tho' his mother was in remission for aiding in her son's death and later innocent, the case did jumpstart a brand new legislation that states that once drugs serve no different purpose than the synthetic support

of life they'll be suspended or not undertaken.

the killing of sick patients WHO requested to finish their lives. This ruling passed thanks to the efforts of a gaggle that powerfully opposed killing. once one in every of their members brought a legal proceeding to the Colombian Supreme Court against it, the court issued a six to three call that spelled out the rights of a terminally person to interact in voluntary killing. tho' medico self-destruction is legal, the country has no thanks to document or set rules and rules for doctors and patients that need to finish their lives. tho' it's opposed on non-secular grounds by several Colombians, several patients have still been ready to notice doctors to help them in ending their lives.

According to the information of UK proof shows that power-assisted dying is rare within the Great Britain. in an exceedingly survey of 8857 physicians, the proportion of Great Britain deaths involving voluntary killing (0.21%; CI: 0-0.52), physician-assisted dying (0.00%) and ending of life while not an exact request from the patient

(0.30%; CI: 0–0.60) was terribly low.

Another facet in U.S. self-destruction is legal within the 37 states of Oregon (via the Oregon Death with Dignity Act), Washington (by Washington Initiative 1000), and American state (through an effort court ruling). There are square measure comparatively substantial barriers to the utilization of a number of these provisions. as an example, Oregon needs a medico to inflict medication however it should be self-administered. The prognosis should be for a generation of six months or less. The person should be a 'resident' of Oregon. A written request for prescription and 2 oral requests from the patient is additionally required to flee criminal liability, and written confirmation by doctor that the act is voluntary and hep. This restricted model has withstood Constitutional scrutiny: *Gonzales v Oregon* 368 F. 3d 1118 (2004), Affirmed by 546 U.S. 243 (2006) so, it is aforementioned that, if there's no life with human bit or dignity than individuals ought to be allowed even right to die.

## 2. Right to Livelihood:

Livelihood includes basic shelter, food and occupation while not that it's not possible to measure. Right to living emerges out of Right to life and no one will live while not the suggests that of living or while not the suggests that of living.

If the proper to living wasn't thought of as a very important right arising from right to life, it'd be terribly simple to deprive an individual from his right to life by depriving him of his suggests that of living.

But, before the case of *Maneka Gandhi*, within the case of *Re Sant Ram*, the Supreme Court control that right to living wouldn't thought of beneath the cover of right to life beneath Article twenty-one, later this judgement was overruled when any interpretation of article twenty-one and also the word 'life'. within the case of *Board of Trustees of Port of urban centre V. Dilipkumar Raghavendranath Nandkarni and Olga Jellies V urban centre Municipal Corporation*, it had been control that right to Life under Article 21.

Right to life doesn't simply mean respiration or animal like existence however contains a wide and comprehensive extent and it includes each component that square measure needed to uphold living of an individual in an

exceedingly dignified manner. but the proper is often and or should be always in accordance with the due procedure of law.

### 3. Right to Live with Dignity:

Right to live with dignity implies that, a person is enjoying his life in an exceedingly dignified manner. one thing that won't only a mere existence and not rather like the manner during which animals want to live. Here lies my question, that whether or not a person WHO is bed ridden and for his every basic needs, he wants somebody for facilitate. Example, whether or not last stage cancer patients, during this case, will be aforementioned that the he's enjoying his life with dignity. A person, WHO even can't eat with his own hands, can't move from his bed, can't even stand or walk for lavatory, in such cases we have a tendency to cannot say that the person resides with dignity, even if his family members love him tons and taking guardianship however still no body will like such an unreasonable life.

Now, once a person has spent most of his life while not dependence on completely different persons however suddenly he must believe others for his every basic needs, during this case he loses his self-confident respect, freedom etc. which means a person resides while not dignity.

we have a tendency to conjointly acknowledge that Right to life beneath Article twenty-one conjointly includes Right to Privacy. Currently, once a person is bed ridden and he even can't wear his own garments by himself, during this case there's no Right to Privacy. These square measure sure instances that we have a tendency to feel is that the essential and necessary issue that every man neutralise their day these days' life, and no-one would like to believe different for those basic needs.

To deprive an individual of dignity is to deprive him of a meaning existence. a person contains a right to choose however he chooses to measure his life while not interference from others, thereby expressing his selection as a basics underlying the proper to measure with dignity. in an exceedingly recent landmark judgment within the case of *Aruna Shanbaug* right to die has been enclosed at intervals the reach of right to measure, which suggests that a patient is allowed to die painlessly once he already is aware of he's on his death bed and would eventually die as a result of the terminal unhealthiness. in and of itself the legitimation of passive killing relieves a terminally sick person from a lingering death. it's been argued many times that such legitimation would result in its absolute use however each right

granted involves a risk of it being abused that doesn't mean that the proper ought to be denied to the individuals.

#### 4. Right to Health and Medical Care:

A person cannot get pleasure from his rights if he/she is tormented by health ailments. A healthy body is needed because it is that the base of all the human activities. within the case of Vincent V. Union of Asian nation, the Supreme Court command that healthy body is that the terribly foundation and humans while not a healthy body cannot get pleasure from their rights and can't live their life with dignity. below Article forty-seven of Indian Constitution, the Directive Principles of State Policy provides for improvement of health and prohibition of medication because the state's duty.

Every person, if tormented by any unwellness, has the proper to treatment, as a personality's life is of sole importance and he has the proper to measure his life. within the case of Parmanand Katara V. Union of Asian nation, the Supreme Court arranged stress on preservation of life as once the life is lost it cannot be repaired in any approach. The Supreme Court additional command that the doctor's area unit needed to proceed with medical care to the bruised or to the

one United Nations agency desires while not legal formalities.

Also, the Supreme Court, within the Case of Paschim Banga Khet Mazdoor Samiti V. State of state, developed right to emergency treatment. during this case, someone tormented by head injuries was refused treatment at varied places on the idea of lack of adequate facilities however Supreme Court found that failure on a part of Government Hospitals to produce treatment to patients will violate his basic right below article twenty-one.

But, the Supreme Court has additionally command, as just in case of State of geographic area V. Ram Lubhaya Bagga, that no country has unlimited resources to pay on anybody of the sectors. Hence, unlimited health facilities cannot be provided and also the government should be within the limit of the finance.

#### 5. Right to Privacy:

“Privacy”, generally sense, means, “the quality or state of being with the exception of company or observation” or “freedom from unauthorised intrusion”. Privacy is also a boundary wall, that a personal makes in his life, on the far side that, he does not wish another person's interference. Privacy

permits a personal to form barriers and manage boundaries to protect himself from unwarranted interference in his life, that allows him to know United Nations agency he is and also the approach he desires to move with the world close him. Privacy helps a personal establish boundaries to limit United Nations agency has access to his body, place and things related to him, additionally as his communications and information. Privacy of a personal might embody his day-to-day activities, his personal data, and things that area unit personal, and hence, sensitive to him. Privacy, basically means, “the right to be let alone” or “the option to limit the access others need to one's personal information”. Privacy may be an important suggests that, among that one seeks to safeguard himself and thus the society, against the capricious and undue use of power, by limiting what's identified regarding him and done to him, by another person, whereas protecting him from others United Nations agency may have to exert management. Privacy is very important to know, United Nations agency we tend to area unit as people in general, and that we create decisions relating to it every single day. It provides US a neighbourhood to be ourselves whereas not one question from another person, and permits US to assume freely with none prejudices and discrimination, and it is an

important a part of giving US management over “who is aware of what, about us”. However, we will conclude that, Privacy area unit a couple of things, that is style of a defend to a personal, that protects him, his dignity, and things related to him, that he considers to be personal and sensitive, and doesn't would love to share with the skin.

i. What is Right to Privacy?

The Right to privacy may be a side of human dignity. Privacy helps a personal defend his individuality, or what is his personal and should be distinguished from what is not and may well be accessed. people describe themselves by workout power over data that is relating to them and a free country does not raise its folks to declare the alternatives they produce concerning what data they like to share and what they like to stay unrevealed. At constant time, this does not mean that public policies worth folks their individuality, their choices, on the pretext of protective them. the proper to Privacy isn't a certain right given below the Constitution of Asian nation, 1950, but rather, it's a right that is underlying the Article twenty-one of the Constitution. Article twenty-one of the Indian Constitution, reads as, “No person shall be empty his life and private liberty,

except by the procedure established by law". this text beneath the Constitution of Asian nation, additionally called the guts of the Indian Constitution, among its wide extent, covers the proper to Privacy nonetheless the proper to Privacy may be a universal conception all right be fine found beneath varied International Laws nonetheless as covenants. every individual maintains a private life and right to privacy aims on distinguishing and conferring the proper of a personal to be left alone, manufacture his own personal house, that's free from the intervention of a 3rd person. for instance, Article twelve of The Universal Declaration of Human Rights (1948) states that, "No one shall be subjected to absolute interference along with his privacy, family, home or correspondence or to unlawful attacks on his honour and name.

In the case of *Kharak Singh vs The State of U.P.*, The Supreme Court, for the primary time, recognised that, there's a right of privacy underlying the Indian Constitution, below Article twenty-one. The Court command that the proper to Privacy is associate degree integral part of the proper to Life, however with none clear cut laws, it still remains within the area. wherever as within the case of *R. Rajagopalan vs State of*

*Madras*, it had been command that, "The right to privacy is underlying the proper to life and liberty absolute to the voters of this country by Article twenty-one. it's a "right to be let alone". A national includes a right to safeguard the privacy of his own, his family, marriage, sexual activity, motherhood, child-bearing and education among alternative matters. nobody will publish something regarding the on top of matters while not his consent whether or not truthful or otherwise and whether or not praising or vital. If he will therefore, he would be violating the proper to privacy of the person involved." within the case of *People's Union for civil liberties(PUCL) vs UOI*, the court arranged down laws in interception provisions within the country like such orders were to be issued by the house secretaries solely, necessity of the knowledge was the thought of, etc. additional it capped 2 months onto the lifetime of associate degree interception order. within the case of *Maneka Gandhi v. Union of Asian nation* , it had been command that, "the right to privacy `is a vital ingredient of non-public liberty' which the proper to `personal liberty is `a right of a personal to be free from restrictions or encroachments on his person,

whether or not those restrictions or encroachments area unit directly obligatory or indirectly led to by calculated measures.” within the Naz Foundation Case (2009) metropolis HC gave the landmark thirty two call on accordant homosexuality. during this case S. 377 IPC and Articles fourteen, nineteen & twenty-one were examined. Right to privacy command to safeguard a “private house during which man could become and stay himself”. it had been aforementioned people want an area of sanctuary wherever they will be free from social control- wherever people can drop the mask, abstain for a moment from protruding on the planet the image they need to be accepted as themselves, a picture which will replicate the values of their peers instead of the realities of their nature. However, The Constitution, thus, acknowledges the proper to privacy as associate degree implicit a part of Article twenty-one of the Indian Constitution. Beside all the items there's the one question that arises all times within the mind of each single person who the proper to Privacy is associate degree absolute right or not. that makes a giant punctuation on the basic rights that area unit outlined below Indian Constitution. As already

mentioned on top of within the cases associate degreeed within the paper no right is an absolute right, as, with unchangingness, comes additionally the ability to misuse or abuse constant. Everything comes with bound restrictions and limitations. Similarly, the proper to Privacy is additionally sure to bound restrictions. for instance, the proper is also lawfully restricted for the hindrance of crime, disorder, or protection of health or moral; or protection of rights and freedom of others. though the proper to privacy may be a part of basic right secured below the Constitution, however specific laws will over ride this wherever larger public interest is concerned.

There are some points to be identified and to be remembered if somebody advisedly captures, publishes or transmits your image of personal space while not your consent by violating your privacy are going to be chargeable for the penalisation of 3 years' imprisonment and shall fine up to 2 lakhs or each that is outlined below section 66E of the knowledge Technology Act 2000 deals that deals with the availability of penalisation for violation of privacy.

## 6. Prisoner's Rights Under Article 21:

There are a unit bound rights below article twenty-one that area unit out there to the prisoners within the read that they have to not be empty their basic rights solely as a result of their convicts of bound crimes. However, they're not allowed to get pleasure from all the basic rights like right to manoeuvre freely within the territory of Asian nation. a number of such rights of the prisoners that area unit protected area unit as follows:

- An unfortunate person has the proper to free legal aid and right to charm in higher courts. The free legal aid is provided to the person suspect if he's too poor to afford a counsel for his illustration. within the case of M.H. Hoskot V. State of Maharashtra, the Supreme Court command free legal aid as necessary ingredient of truthful trial. The unfortunate person should even be given adequate time to charm within the courts.
- A person, if guilty, his mere conviction doesn't flip him but an individual's. he's still an individual's being having bound rights. An unfortunate person isn't allowed to be unbroken in solitary. within the case of Sunil Batra V. Metropolis Administration, throughout the pendency of charm in state supreme court against metropolis Session Court, he was unbroken in solitary in Tihar jail. The Supreme Court accepted the petitioner plea that it had been no authority of Jail to place him in solitary.
- Prisoners, United Nations agency area unit in custody and detained or suspicion, have right against tutelary violence. because of ton of tutelary deaths and examination ways. a personality's basic right below article twenty-one is desecrated and Court has classified them as against human dignity.
- The Supreme Court, in the case of professional General of Asian Nation V. Lachma Devi, command that a barbaric crime mustn't be penalised with barbaric penalty. Direction for death sentence (public hanging) was command unconstitutional and offending of article twenty-one.
- An unfortunate person, if guilty for a penalisation, has the proper against its delayed execution. within the case of T.V. Vatheeswaram V. State of Madras, the Supreme Court command that

delay in execution of death sentence extraordinary two years would be adequate to invoke Protection below article twenty-one and death sentence would be born-again to incarceration.

### 7. Right to Pollution Free Environment:

Article twenty-one of Indian constitution deals with Right to life with personal liberty. this text deals with several different rights, one such is that the 'Right to Pollution Free Environment'. The existence of life on earth depends on the harmonious relationship between the scheme and therefore the setting. Hygiene and setting square measure integral facet of rights to healthy life, and it'd be not possible to measure with human dignity while not a humane and healthy setting, and it's the duty of State and each person to take care of the eco-friendly atmosphere

The Indian Constitution is amongst the few Constitution within the world that mentions a number of the provisions of setting protection. it's illustrious that the concept of environmental protection wasn't within the minds of the beginning fathers of the constitution, they're not any single provision associated with setting within the constitution once originally written. thereon time owing to less industry and fewer

globalisation, the need of environmental protection wasn't felt to the constitution-makers however the situation has modified until currently with the increase of modernization thus pollution in Asian country has become thus grave. fashionable environmental jurisprudence in Asian country is actually developed through the legislative arousal post Bhopal gas tragedy, adoption of national capital and metropolis Conventions by Asian country and inventive interpretation of Article twenty-one by the Indian judiciary. Incorporation of right to pollution free setting or clean setting in right to life in Article twenty-one of the Asian Country Constitution is a vital facet of contemporary environmental jurisprudence in India, right to wash setting has become a section of right to life and is accepted as a personality's right and conjointly an elementary right.

The Supreme Court in Subhas kumar v. State of Bihar, 1991 command that Article twenty-one includes the correct to a wholesome setting. They followed the liberal thinking that started within the Rural legal proceeding case and had arranged down an expansive interpretation of the word "life" in Article twenty-one by together with environmental protection in Right to Life.

Similarly, within the case of *Ratlam Municipality v. Vardicha* the Supreme Court dominated that the pollution-free setting is a component of Art. 21.

And within the case of *M.C. Mehta v. Union of Asian country* the Supreme court says that it's the duty of presidency that air shouldn't tarnish because of vehicle pollution, the Supreme Court directed that significant, medium or light-goods vehicles not conformist to monetary unit II norms or not exploitation low sulphur, low aromatic hydrocarbon fuel and plying on Inter-State routes weren't to be allowed to suffer metropolis, and Supreme court established a brand new construct that the liability of the enterprises is 'absolute and can't be delegated' for the disaster arising from the storage or use of harmful materials from their factories, the enterprises are command liable no matter the actual fact that they need taken correct care or not.

within the year of 2010 the govt. was enacted The National inexperienced court Act, 2010 for the aim of the speedy and economical disposal of cases associated with environmental protection and conservation. This Act was created in accordance with the choices of the United Nation Conference on setting and First State Development command at metropolis De Janeiro in 1992 wherever deliberations

were command associated with effective access to judicial recourse for environmental problems.

Section 14(1) of this act says that solely civil cases associated with environmental problems square measure admissible within the court and therefore the limitation amount for filing AN application before court is six months and beneath Section 15(1) of this act the court has the ability to order:

1. Relief and compensation to the victim to pollution.
2. Restitution for property broken or for the harm caused to the setting.

### 8. Right to Education:

Education is one in every of the vital half in every and each human life. If an individual was educated he acquires data, learns behaviour and strategies to survive within the society. In easy manner, an individual is revered if he had some dignity within the society, and therefore the solely thanks to attain dignity and temperament is educating himself. Education could be an elementary right and essential for the exercise of all different human rights, it promotes individual freedom and management and it's a key to development of humanity. tho' members of constituent assembly knew the

importance of universal education however even then, because of lack of resources they may not offer it as an elementary right, however it absolutely was mentioned in Directive Principles of State Policy.

In the year of 1992 within the case of *Mohini Jainist v. State of Karnataka* the Supreme court command that nobody shall be empty his life or personal liberty except consistent with the procedure established by law. beneath Article twenty-one the dignity of a private can't be assured unless it's in the middle of a right to education, and therefore the court found that it's clear that the framers of the constitution created it obligatory for the state to produce education for its voters. The court cited the Universal Declaration of human Rights, and variety of cases that command that the correct to life keep a lot of then "life and limb" together with requirements of life, nutrition, shelter, and skill and conjointly limits charging tax fee as a result of because of inability to pay cash poorer persons cannot get admission in academic establishments and citizen's "right to education" get denied. conjointly in 1993 within the case of *Unni Krishnan v. State of province* the Supreme court clearly says right to education is a component of right to life.

In the year of 2002 through The Constitutional (Eighty-sixth Amendment) Act, 2002 Article 21A incorporated into the constitution and right to education was expressly recognized as elementary right and it ensured the essential education of elementary level of the minor youngsters. within the year of 2009 for the free and required education of the age of 6-14 years the parliament enacted the correct to Free and required Education Act, 2009 that is additionally called Right to Education (RTE) Act.

### **CONCLUSION:**

At the end, we are able to draw the conclusion that before the case of *Maneka Gandhi*, definition of life and article twenty-one had been abundant narrower, like right to education was unbroken beneath DPSP and there was no thought given to right to privacy, however the rendition and the judicial creative thinking light-emitting diode to wider interpretation of article twenty-one including each potential perspective of right to life. The Supreme Court has completed a really important role in decoding article twenty-one and it's quite potential that we are able to see sure a lot of dimensions more to word 'life' beneath article twenty-one.



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