

Article 21: The Heart and Lifeline of the Fundamental Rights

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Abstract

In every organized society, the rights as guaranteed by the established are meant to achieve the certain ends. Right to life and personal liberty is an essential part of human life. In its wider connotation, it includes all the basic necessities of life without which one could not even survive. Article 21 deals with one of the Fundamental Rights guaranteed by the Constitution. The right to life and personal liberty is a fundamental right in the Indian Constitution that protects people from being deprived of their life or liberty without due process. The Supreme Court of India has described this right as the 'Heart of Fundamental Rights'. The right specifically mentions that no person shall be deprived of life and liberty except as per the procedure established by law. This implies that this right has been provided against the State only. State here includes not just the government, but also, government departments, local bodies, the Legislatures, etc. Any private individual encroaching on these rights of another individual does not amount to a violation of Article 21. The remedy for the victim, in this case, would be under Article 226 or under general law. The right to life is not just about the right to survive. It also entails being able to live a complete life of dignity and meaning. The chief goal of Article 21 is that when the right to life or liberty of a person is taken away by the State, it should only be according to the prescribed procedure of law. This research paper explains the meaning, significance and scope of life and personal liberty. It also discusses the Indian judiciary's concern towards the liberal interpretation of right to life and personal liberty. By doing so, the landmark judgments declaring right to live healthy environment, right to privacy, right to marry, etc. as part of right to life and personal liberty have been analysed in detail.

Keywords: Right to Life, Personal Liberty, Constitution of India, Judicial Interpretation.

Introduction

According to Article 21:

“Protection of Life and Personal Liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law.”

The ingredients of Article 21 are:-

- a. **Person:** The word person is not confined only to citizens but extends to every person irrespective of the nationality or circumstances in which the person is placed. This implies that the protection guaranteed under Article 21 extends even to persons undergoing imprisonment in jails. A prisoner

does not lose all the fundamental rights belonging to all persons under the Constitution merely because he is in jail and convicted.¹

- b. Deprived:** The second ingredient of Article 21 comes into picture when there is deprivation of life or personal liberty of a person not authorised by law. The term “Deprived” came for consideration in the famous case of **A.K Gopalan v. State of Madras**,² The Supreme Court held that Article 21 gets attracted only in the case of deprivation in the sense of “total loss” and that the said article had no application in case of restriction upon the right to move freely. But later the meaning of “deprivation” came to be modified in **Kharak Singh v. State of U.P.**,³ wherein the Supreme Court held that Article 21 would require authority of Law even for restrictions on personal liberty.
- c. Right to Life:** The right to life is not just about the right to survive. It also entails being able to live a complete life of dignity and meaning. The expression „human rights“ embraces the rights of man both as individual and as a member of society. Human rights promote individual welfare as well as social welfare. Right to life has been considered as the most fundamental of all human rights. Denial of the right to life means refutation of all other human rights because none of other rights would have any existence without it. Because of its great value it has been recognized in various international, national, and regional documents.

Similarly, “right to life” under Article 21 of the Indian Constitution is supreme amongst all fundamental rights, enshrined in Part III of the Constitution of India. In its true sense, “Right to life” means a way of living which empowers every individual to enlighten his or her inner and outer contents, to enjoy dignified and humane life, to get pleasure of fundamental freedoms, etc. Every civilized state is bound to protect individual’s right to life. Indian judiciary has played an active role in enforcing the true spirit of right to life mentioned under Article 21 of the Indian Constitution. It has been observed that the inspired courts started giving new dimensions to the “right to life” under Article 21 of the Indian Constitution.

The Supreme Court of India in **Francis Coralie Mullin v. Union Territory of Delhi**,⁴ observed “Right to life” includes the right to live with human dignity. It further includes the basic necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. Therefore, this was the time in India when the real soul of “right to life” took rebirth in the form of “right to live with human dignity”. The Hon’ble Supreme Court again in **Samatha v. State of U.P.**,⁵ endorsed an individual’s right to live with human dignity, and observed that the life becomes meaningful only when an individual enjoys the social, cultural and intellectual life.

- d. Right to Personal Liberty:** Personal liberty includes the freedom to move freely, the freedom to choose one’s place of residence, and the freedom to engage in any lawful occupation or profession.

According to **Blackstone**, “Personal liberty consists in the power of locomotion, of changing situation or moving one’s person to whatsoever place one’s own inclination may direct.”⁶ It is submitted that Blackstone’s main emphasis on the freedom of movement.

¹ Justice N.K. Jain, *Article 21 of the Constitution*, available at:

<https://rshrc.rajasthan.gov.in/writereaddata/Publications/202208290143461701052HUMAN-RIGHTS-ARTICLE-21.pdf> (last visited on January 31, 2025).

² AIR 1950 SC 27.

³ AIR 1963 SC 1295.

⁴ AIR 1981 SC 746.

⁵ AIR 1997 SC 3297.

⁶ Blackstone, *Commentaries on the Laws of England* (Dawsons of Pall Mall, 1966).

Another view is of **Dicey** who says, “The right to personal liberty means in substance a person’s right not to be subjected to imprisonment, arrest, or other physical coercion in any manner that does not admit of legal justification.”⁷ It is submitted that Dicey’s definition is primarily concerned with the negative aspect of personal liberty which prohibits the State from taking any unjustified action against an individual.

Lord Denning has also given broader expression to the “liberty” of a person. He observed⁸: By personal freedom I mean the freedom of every law abiding citizen to think what he will, to say what he will and to go where he will on his occasions without let or hindrance from any other person.

Another significant case is of **Allgeyer v. Louisiana**,⁹ in which the United States Supreme Court observed that the term “liberty” in the Fourteenth Amendment means not only freedom from mere physical restraint but the term “liberty”¹⁰ means:

[R]ight of the citizen to be free in the enjoyment of all his faculties, to be free to use them in all lawful ways; to live and work where he will; to earn his livelihood by any lawful calling; to pursue any livelihood or avocation, and for that purpose to enter into all contracts which may be proper, necessary and essential to his carrying out to a successful conclusion the purposes above mentioned.

However, in **Kharak Singh v. State of U.P.**,¹¹ the Supreme Court of India refused to accept the narrowest interpretation of the term “personal liberty”. The court held that the term “personal liberty” under Article 21 of the Indian Constitution included not only mere freedom from physical restraint but all other aspects of liberty not covered by Article 19 of the Indian Constitution.

Law: Constitution makes no distinction between law made by the Legislature and ordinance issued by the President. Both are equally subject to limitation which the Constitution has placed on that power. The law that is mentioned in Article 21 must be a valid law.

Procedure Established by Law: The expression “Procedure Established by Law” means prescribed by law of the State. It has to be just, fair and reasonable. It must embody the principles of natural justice. In **Maneka Gandhi v. Union of India**,¹² it was held now there is a situation that every action of the State is being decided on the test of reasonableness while interpreting Article 21. In other words, the Court liberally construed the words “procedure established by law” to include within it all those essential aspects of procedure that constitute due process of law.

The Hon’ble Supreme Court of India in **Kartar Singh v. State of Punjab**,¹³ again reiterated that the term “procedure” under Article 21 means a procedure which is right, just and fair, and not arbitrary, fanciful or oppressive. The procedure should conform to the principles of natural justice which is “fair play in action”.

List of Rights That Article 21 Covers Based On Judgments

1. RIGHT TO LIVELIHOOD-

⁷ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn, Macmillan, 1959).

⁸ Alfred Denning, *Freedom under the Law* (Stevens & Sons Limited, 1949).

⁹ 165 U.S. 578 (1897).

¹⁰ *ibid.*, p. 589.

¹¹ AIR 1963 SC 1295

¹² AIR 1978 SC 597.

¹³ (1994) 3 SCC 569.

In Olga Tellis v. Bombay Municipal Corporation,¹⁴ the Court observed that the right to life under Article 21

does not merely mean the right to physical survival but includes the right to live with dignity. The right to livelihood is an essential component of the right to life because without a means of subsistence, life would be devoid of its essence and meaning. The Court also noted that if the right to livelihood is not considered a part of the right to life, the easiest way to deprive a person of their right to life would be to deprive them of their means of subsistence. Such deprivation would make life impossible and would violate the constitutional guarantee of the right to life.

2. RIGHT TO PRIVACY- It includes:-

- The right to be left alone.
- The right to make decisions about private choices.
- The right to be protected from exploitation of personal data.
- The right to keep personal information private and protected from unauthorized access.

A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, childbearing and education. None can publish anything concerning the above without the consent of the person whether truthful or otherwise. Such publication would amount to violation of the right to privacy but such rule is subject to an exception that if any publication of such matters is based on public record including court record then it will be unobjectionable.

2.1 Right to Privacy is available to a woman of easy virtues-

In State of Maharashtra And Another v. Madhukar Narayan Mardikar,¹⁵ a Police Inspector allegedly visited the house of a lady in uniform and demanded to have sexual intercourse with her. On her refusing he tried to have her by force. She raised a hue and cry. His plea was that she was of lady of easy virtue and so her evidence could not be relied upon. The SC held that even a woman of easy virtue is entitled to privacy and no one can invade her privacy.

2.2 Right to Privacy not an absolute right-

In Mr, 'X' v. Hospital 'Z',¹⁶ the appellant, a doctor was advised to accompany his patient to another hospital 'Z' for treatment by the Government of Nagaland. There the doctors asked him to donate blood to the patient. The blood samples of the appellant were found to be HIV (AIDS) positive. The appellant's marriage was called off on this ground so he filled a writ petition against the Hospital 'Z' that disclosing this information was against Medical Ethics and his right to privacy has been infringed. SC held that the right to privacy is a fundamental right but not an absolute right under Article 21. Restrictions can be imposed on it. The lady with whom he was likely to get married is saved by this disclosure.

3. RIGHT TO SHELTER-

In M/S. Shantistar Builders v. Narayan Khimalal Totame and Others,¹⁷ it was held that the right to life is guaranteed in any civilized society. That would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference

¹⁴ AIR 1986 SC 180

¹⁵ AIR 1991 SC 207

¹⁶ AIR 1999 SC 495

¹⁷ AIR 1990 SC 630

between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body; for a human being it has to be a suitable accommodation which would allow him to grow in every aspect - physical, mental and intellectual.

4. RIGHT TO MEDICAL CARE-

In Parmananda Katara v. Union of India,¹⁸ The Court held that here can be no second opinion that preservation of human life is of paramount importance. The patient whether he be an innocent person or be a criminal liable to punishment under the laws of the society, it is the obligation of those who are in-charge of the health of the community to preserve life.

5. RIGHT TO HEALTH-

In Vincent v. Union of India,¹⁹ the Supreme Court held that a healthy body is a very foundation of all activities. Even Article 47, a Directive Principle lays stress on the level of nutrition and the standard of living of it's people as one of the primary duties of the State.

6. RIGHT AGAINST SOLITARY CONFINEMENT-

In Sunil Batra v. Delhi Administration (No.1),²⁰ the Hon'ble Court has held that if by imposing solitary confinement there is total deprivation of liberty amongst co-prisoners comingling and talking and being talked to, it offends Article 21 of the Constitution unless it is backed by law.

7. RIGHT OF UNDERTRAILS-

In Sunil Batra v. Delhi Administration (No.2),²¹ the Hon'ble Court has held that the under trails are presumably innocent until convicted and if they are kept in jail with prisoners, it violates the test of fairness of Article 21 of the Constitution.

8. RIGHT AGAINST MALICIOUS DETENTION-

In Bhim Singh v. State of J & K,²² the Court held that illegally detaining a person in police custody amounts to violation of right of personal liberty under Article.21 of the Constitution.

9. RIGHT TO POLLUTION FREE ENVIRONMENT-

In Subhash Kumar v. State Of Bihar And Ors.,²³ the Hon'ble Court has held that under Article 21-Right to live includes right to enjoyment of pollution free water and air.

In Murli S. Deora v. Union of India & Ors.,²⁴ the Court held that allowing smoking in public places would amount to an indirect violation of the right to life of non-smokers. It said that smoking in public was injurious to the health of passive smokers who were helpless victims of air pollution caused by smoking.

¹⁸ AIR 1989 SC 2039

¹⁹ (1987) 2 SCC 165

²⁰ AIR 1978 SC 3034

²¹ AIR 1980 SC 1579

²² (1985) 4 SCC 677

²³ AIR 1991 SC 420

²⁴ AIR 2002 SC 40

In M.C Mehta v. Union of India,²⁵ the Court directed the Government to convert all buses running in Delhi to CNG fuel to safeguard the life of the people.

In Arjun Gopal v. Union of India,²⁶ fathers of three infants who were concerned about their health felt that alarming degradation of air quality will affect their health moved to the Court to check caused of air pollution and issue direction to ban burning of crackers during festivals. The Hon'ble Court proceeded on the assumption of burning crackers during Diwali as a religious practice and held that – Article 25 is subject to Article 21 and if a particular religious practice is threatening the health and lives of the people, such practice is not entitled to protection under Article 25 of the Constitution.

In Vellore Citizen Welfare Forum v. Union of India,²⁷ The Court considered various constitutional provisions including Articles 47, 48 A, 51-A (g). The court concluded that the State is bound to protect and preserve the ecology, as every person has a right to live in a pollution free atmosphere. The court further held that the doctrines like precautionary principle and polluter pays principle are indispensable parts of the environmental law of India. The court also held that reparation of the damaged environment is a part of “Sustainable Development” and, binds the polluter to pay the cost to the sufferers as well as the cost of reversing the damaged environment.

In Rural Litigation and Entitlement Kendra Dehradun v. State of Uttar Pradesh,²⁸ also known as **Doon Valley Case**, the Supreme Court had to deal with a dispute involving mining in the hilly areas. After proper investigation, the Supreme Court ordered to stop the mining work. The court also ordered to pay the price to the sufferers in order to protect and safeguard the right of the people to live in healthy environment. The court also showed its great concern to the local inhabitants’ cattle, homes and agricultural land.

10. PROTECTION AGAINST CUSTODIAL DEATH-

In D.K Basu v State of West Bengal,²⁹ the Hon'ble Court has that Custodial death is perhaps one of the worst crimes in a civilized society. Any form of cruel, inhuman or degrading treatment, falls within the inhibition of Article 21 of the Constitution whether it occurs during investigation, interrogation or otherwise. The precious right to life under Article 21 cannot be denied to convicts, under trials or prisoners, except according to the procedure established by the law.

11. RIGHT AGAINST SEXUAL HARASSMENT-

In Dy. Inspector- General of Police v. S. Samuthiram,³⁰ the court has held that every citizen has the right to live with human dignity and honour. Sexual harassment like eve-teasing of women amounts to violation of this fundamental right under Article 21 of the Constitution.

12. RIGHT AGAINST HANDCUFFING-

In Prem Shankar v. Delhi Administration,³¹ the Hon'ble Court has observed that Handcuffing is prima facie inhuman and should be resorted to only when there is “clear and present danger of escape”

²⁵ AIR 2002 SC 1696

²⁶ AIR 2018 SC 5731

²⁷ AIR 1996 SC 2715.

²⁸ AIR 1989 SC 594.

²⁹ AIR 1997 SC 610.

³⁰ AIR 2013 SC 14.

³¹ AIR 1980 SC 1535.

breaking out the police control. The escorting authority must record the reasons for doing so otherwise the procedure would be unfair. Because Article 21 of the Constitution insists upon fairness, reasonableness and justice in procedure to prevent deprivation of life and liberty.

13. RIGHT AGAINST COMPULSORY BLOOD TEST TO DETERMINE PATERNITY-

In Ningammar v. Chikkaiah,³² the wife and daughter filed a suit for maintenance against the father. The father denied the relationship of being the daughter's father. He contended that the mother and daughter must subject themselves to Medical Examination of their blood group test in order to determine the paternity of the child. The Karnataka High Court held that it would be violative of Article 21 of the Constitution to compel the mother and daughter to submit to Medical Examination without their consent or against their wish.

14. RIGHT TO DIE AND EUTHANASIA-

The debate on right to die vis-à-vis right to life got ignited when the Supreme Court in **P. Rathinam v. Union of India**,³³ for the first time, declared Section 309 of the Indian Penal Code 1860 as unconstitutional. For the court, suicide or attempt to commit it causes no harm to others. However, the larger bench of the Supreme Court in **Smt. Gian Kaur v. State of Punjab**,³⁴ overruled P.Rathinam's case and held that in the case of terminally ill patient or a person in Permanent Vegetative State (PVS), where there is no hope of recovery, accelerating the process of death for reducing the period of suffering constitutes a right to live with dignity under Article 21 of the Constitution.

In Common Cause v. Union of India,³⁵ the Supreme Court reaffirmed that the right to die with dignity is a fundamental right under Article 21 and ruled that an adult human being who has the mental capacity to make informed decision has the right to refuse medical treatment including the removal of life supporting devices. This ruling legalized passive euthanasia for terminally ill patients.

In Aruna Ramchandra Shanbaug v. Union of India,³⁶ the Supreme Court has legalized passive euthanasia and clarified that it would remain in force until the enactment of a relevant law by Parliament in this regard. Considering some foreign judgments, the Supreme Court held that Article 226 gives abundant power to the High Court to pass suitable orders on the application filed by the near relatives or next friend or the doctors/hospital staff praying for permission to withdraw the life support devices of a patient who is in permanent vegetative state and is incompetent to give any consent.

15. RIGHT TO EDUCATION-

In Mohini Jain v. State of Karnataka,³⁷ the Supreme Court of India observed that mention of "life and personal liberty" in Article 21 of the Constitution automatically implies some other rights, those are necessary for the full development of the personality, though they are not enumerated in Part III of the Constitution. Education is one such factor responsible for overall development of an individual and therefore, right to education is integrated in Article 21 of the Constitution.

³² AIR 2000 Kant. 50

³³ AIR 1994 SC 1844.

³⁴ AIR 1996 SC 946.

³⁵ AIR 2018 SC 1665.

³⁶ AIR 2011 SC 1290.

³⁷ (1992) 3 SCC 666.

16. RIGHT TO MARRY-

The Supreme Court in **Lata Singh v. State of Uttar Pradesh**,³⁸ recognized the right to marry as a fundamental part of right to life under Article 21 of the Indian Constitution. The court said that a major person can marry any person of his own choice in the free and democratic world. Furthermore, the Supreme Court of India in the case of **Arumugam Servai v. State of Tamil Naidu**,³⁹ said that the institutions who encourage honour killings or other atrocities on the boys and girls, belong to different castes or religions and wish to get married, are illegal. Increasingly, in **Bhagwan Dass v. State (NCT of Delhi)**,⁴⁰ the Supreme Court held that the so called “Honour Killings” fall within the ambit of „rarest of rare cases“, as these are barbaric and feudal practices. Therefore, the court held that the perpetrators of such killings deserve death punishment.

ARTICLE 21 AND DEATH PENALTY: A CRUCIAL SUBJECT

One of the most hotly disputed topics of our time is the individual right to life and the demand for abolition of capital punishment. The history of human civilisation indicates that “capital punishment” has never been abolished as a form of punishment. There are two basic reasons for punishing wrongdoers: to deter others from doing wrong, and to deter others from doing wrong.

According to the proponents of death sentence, the murderers cannot exercise their right to life or their right to life ceases to exist as they have destroyed the right of life of someone else. On the other hand, people advocating the abolition of death penalty argue that capital punishment violates the right to life of a person. They say that death penalty is not an appropriate response to the wrongful death of a person.

STAND OF INDIAN JUDICIARY ON CAPITAL PUNISHMENT

In **Jagmohan Singh v. The State of U.P.**,⁴¹ the validity of section 302[10] (under which a person who has committed the crime of murder can be punished with death) by the attorney for the appellant. He presented three arguments in order to invalidate section 302 of the IPC. In his 1st argument he said that with, execution violates all of the fundamental rights protected by Clauses (a) to (g) of Sub-clause (1) of Article 19[11], and thus the law concerning capital punishment is irrational and not in the general public's interest. Second, the Judges' discretion to impose capital penalty is not based on any legislatively mandated norms or policies favouring capital punishment over life imprisonment.

Third, he argued that Article 14[12] of the Constitution prohibits judges from exercising unrestricted and unguided discretion in imposing Death penalty or life imprisonment. Finally, it was argued that the law's provisions do not provide for a trial of reasons and circumstances that are critical in deciding between the death penalty and life imprisonment. The right of life which is conferred by Article 21 (1)[13] of the Constitution was infringed.

After considering the arguments, a five-judge panel maintained constitutionality and validity of capital punishment, ruling that deprivation of life is constitutionally lawful and permissible punishment by the drawers of our constitution.

³⁸ AIR 2006 SC 2522.

³⁹ 2011 STPL(Web) 403 SC 1.

⁴⁰ (2011) 6 SCC 396.

⁴¹ AIR 1973 SC 947.

In Rajendra Prasad v. State of U.P.,⁴² the appellant (Rajendra Prasad) was charged with murder charges of 2 people. He was initially condemned to life in prison for First Murder, but was released on the eve of Gandhi Jayanti in 1972 after serving his term. But again in a flare-up of the long-running family rivalry, he brutally murdered a friend of the other family on October 25, 1972, just 23 days later. The Allahabad court, after reviewing the circumstances, sentenced him to death, but the verdict was overturned in the Supreme Court on the grounds that the accused was not a threat to society and that the murder was committed solely to settle a personal family feud. In this case Justice Krishna Iyer said that capital punishment, according to, is a violated the Article 14, Article 19. He said that capital punishment also violates Article 21 which confers right to life to the citizens of India

In this case, it was also determined that when a person is sentenced to death, he loses his right to life, so jeopardising his fundamental right to life. He went on to say that two conditions must be met in order to impose Capital Punishment. At first the special basis on which capital punishment is being conferred in a case should be recorded. Second, the capital punishment should only be imposed in exceptional circumstances.

In Bachan Singh v. State of Punjab,⁴³ the court held that the rights which are guaranteed under article 19 (1) are not absolute rights. The Supreme Court has overturned its prior decision in Rajendra Prasad's case, ruling that the death penalty under section 302 of the Indian Penal Code does not violate article 21. The court did not abolish capital punishment completely however the judges said capital punishment should be imposed in a reasonable and not arbitrary manner. In this case the court laid down the principle of "rarest of the rare case".

The judges said that "Judges should not be blood thirsty, the Court said in this case. Resistance to taking a life through the instrumentality of laws is predicated on a genuine and persistent respect for the dignity of human life. That should only be done in the most exceptional of circumstances, when the alternative choice is unquestionably ruled out."

In Machhi Singh & Others v. State of Punjab,⁴⁴ the notion of the "rarest of rare cases" was discussed and upon. It was a particularly heinous case. Machhi Singh, the primary culprit in the case, with eleven accomplices staged raids on a number of villages over the course of a single night, killing seventeen people, men, women, and children, for no reason other than they were linked to one Amar Singh and his sister Piyaro Bai. In this case the court determined that there are five types of cases which might be classified as the "rarest of rare cases", and in which capital punishment can be awarded. When a murder is committed in an unusually violent manner in order to raise intense and extreme astonishment in the community. When a murder is committed for a move that demonstrates depravity and cruelty. The crime is of a social or socially reprehensible kind. The scale of the crime – heinous crimes of huge proportions and the last criteria to determine that weather a crime will be come under. "Rarest of the rare case" is the personality of the victim.

Denna v. Union of India,⁴⁵ was a landmark decision by the Supreme Court on the validity of hanging a person to carry out the Death Penalty and if it was a violation of Article 21. The fundamental question was whether Section 354 (5) of the Criminal Procedure Code was constitutionally valid and whether it was in conflict with Article 21 of the Indian Constitution. The Supreme Court ruled that hanging by rope

⁴² AIR 1979 SC 916.

⁴³ AIR 1980 SC 898.

⁴⁴ AIR 1983 SC 957.

⁴⁵ (1983) 4 SCC 645.

during the execution of the death penalty does not violate Article 21 of the Indian Constitution and that it is legal.

In Sher Singh & Others v. The State of Punjab,⁴⁶ the Supreme Court ruled in this case that the death sentence is constitutionally lawful and permissible within the limits of the Bachan Singh rule. This must be recognised as the law of the land and it does not violate right to life under article 21.

ARTICLE 21 AND EMERGENCY

The President can declare a national emergency if she believes the security of India is threatened by war, armed rebellion, or external aggression. This act restricted the suspension of fundamental rights, ensuring that Articles 20 and 21 cannot be suspended during an emergency.⁴⁷

In A.D.M Jabalpur v. S. Shukla,⁴⁸ the SC held that Article 21 is the sole repository of the right to life and personal liberty and if the right to move to any court for the enforcement of this right is suspended by the Presidential order, the detinue has no locus standi to move to the court for challenging the legality of their detention.

CONCLUSION

Article 21 is a fundamental right that protects the essence of life and personal liberty. It is a dynamic provision that has evolved through landmark cases. As stated above in many cases, the Supreme Court of India played an important role in interpreting Article 21 of the Constitution. In this way the Supreme Court has expanded the liabilities, duties and responsibilities of the state and its officials and fully implemented its explanatory and proactive judicial process. Thus, it becomes very clear that over many times, the Court while interpreting the Article 21 of the Constitution may be able to enforce the rights as guaranteed under Article 21 and also possibly that the court is enable to adjacently add some more rights or considered the rights as inherent provision under the Article 21 of the constitution of India which makes the scope of this article is very wide and in range. Liberty exists only if the restrictions exist. The full-fledged liberty is not possible so far as civilized society. Though the state is servant of the constitution and his loyalty must be towards its citizens by means of enactment of welfare policy. Some restrictions are necessary for the common interest, but they should be free from bias and the public should be confident of their prudence. Certain restrictions would be imposed upon the fundamental rights but at the ends such restriction must be ensure the equal and fair treatment with all the civilians.

⁴⁶ AIR 1983 SC 465.

⁴⁷ The 44th Amendment Act, 1978.

⁴⁸ AIR 1976 SC 1207.