

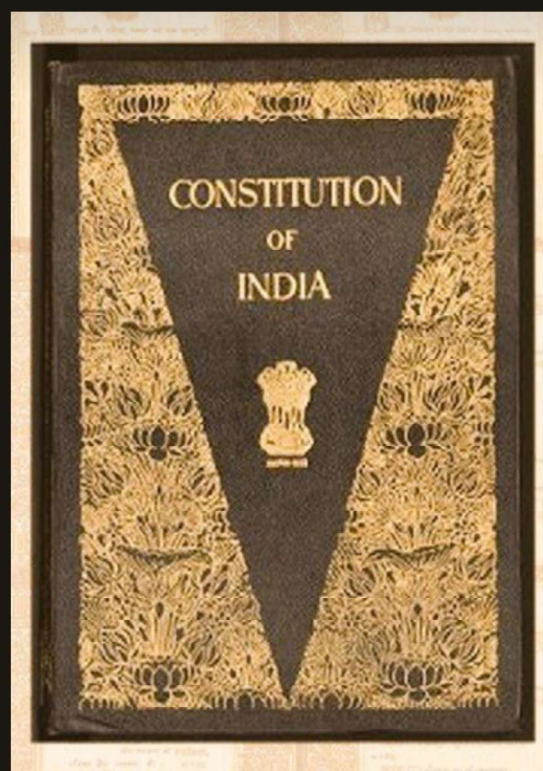
The Living Constitution: Evolving Horizons of Article 21- *Heysha Zaveri*

The Indian Constitution has often been described as a living, dynamic document rather than a static code locked in time. From its inception in 1950, courts and scholars have treated the Constitution as an organic framework that adapts to changing values and social conditions. Nowhere is this more evident than in the judicial expansion of Article 21, which guarantees that “no person shall be deprived of his life or personal liberty except according to procedure established by law.” Over the decades, the Supreme Court of India has read Article 21 expansively, transforming it from a limited guarantee into a pillar of human dignity, encompassing everything from the right to livelihood and health, to privacy and personal autonomy. Landmark rulings from A.K. Gopalan to Maneka Gandhi, to modern cases on digital rights illustrate how judicial interpretation has stretched Article 21 to meet new challenges. This living-constitution approach ensures that the right to “life and personal liberty” keeps pace with societal changes and emerging norms.

Article 21 at Inception: A Narrow View

Initially, Article 21 was read very narrowly. In *A.K. Gopalan v. State of Madras* (1950), the first batch of cases interpreting the Constitution, the Supreme Court took a strict view of “procedure established by law.” Under this view, as long as Parliament passed a valid law, even one severely limiting life or liberty, it would survive Article 21 scrutiny. The Court in *Gopalan* held that “law” in Article 21 simply meant any legislated rule, without requiring fairness or reasonableness. Consequently, early decisions placed few substantive constraints on the State there was no guarantee of a fair process or dignity beyond the bare text. In this era, Article 21 was effectively a negative protection against arbitrary state action, but offered limited substantive rights.

This narrow interpretation began to change as the courts embraced the idea that the Constitution is a “living organ.” By the late 1970s, the Supreme Court signaled a departure from rigid textualism.



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Maneka Gandhi and the Golden Triangle

The decisive turning point came with *Maneka Gandhi v. Union of India* (1978). In that case, the Court overturned A.K. Gopalan's narrow approach and linked Articles 14, 19 and 21 into what has been called the "Golden Triangle." The petitioner's passport had been impounded by an executive order, and the Court held that any law depriving life or liberty had to pass the tests of fairness under Article 14 (equality) and be consistent with freedom guaranteed by Article 19. Famously, the Supreme Court declared that "procedure established by law" must be "just, fair and reasonable," not arbitrary or oppressive. As Justice Bhagwati observed, no law could trump basic fundamental rights just by dint of being passed by legislature. Maneka Gandhi thus revolutionized Article 21: it was no longer a mere limit on state power, but a source of positive entitlements.

The Maneka judgment also explicitly treated the right to "life" and to "personal liberty" as carrying equal weight. In other words, freedom of movement, travel, and personal security were all protected. Notably, the Court read the right to travel abroad into Article 21's "personal liberty." More generally, Maneka taught that any restriction on life or liberty must satisfy reasonableness and proportionality. This marked a seismic shift the courts would now interpret Article 21 in light of fundamental rights guarantees and the overarching constitutional ethos. In sum, Maneka Gandhi put Article 21 on a living-constitution footing, opening the door to future expansions.



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Personal Liberty and Privacy

The phrase “personal liberty” in Article 21 has proven fertile for protecting intimate aspects of life. Over time, the courts have held that fundamental choices about one’s body, relationships and lifestyle are covered:

Right to privacy: Long before recent high-profile rulings, Indian courts recognized privacy as implicit in Article 21. In *R. Rajagopal v. State of Tamil Nadu* (1994), the Supreme Court struck down publication of a rape survivor’s identity on privacy grounds, calling privacy the “right to be left alone.” The landmark *K.S. Puttaswamy v. Union of India* (2017) unanimously declared privacy a fundamental right under Article 21. This judgment overruled earlier case law and affirmed that personal data, intimacy, choice of relationships, and informational privacy all fall under the right to life. Justice Chandrachud, writing for the Court, emphasized that respect for personal dignity and autonomy in a digital age are essential to Article 21.

Bodily and sexual autonomy: Building on privacy, the Court has recognized broad sexual and reproductive rights as part of life and liberty. In *Navtej Singh Johar v. Union of India* (2018), the Supreme Court decriminalized consensual same-sex relations by holding that Section 377 IPC violated the dignity, autonomy and privacy of LGBT individuals under Article 21. Similarly, in *Joseph Shine v. Union of India* (2018), the Court struck down the adultery law as unconstitutional, affirming that a married woman’s sexual autonomy cannot be subsumed by patriarchal notions of marriage. The Court declared that sexual autonomy and equality are intrinsic to the right to life.

Marriage and family choices: The freedom to marry and live with a person of one’s choosing has also been affirmed. For example, in *Laxmibai Chandaragi v. Karnataka* (2021), the Supreme Court held that when two consenting adults decide to marry, they do not need approval from family or community. This right to choose one’s spouse was declared a fundamental component of life and personal liberty under Article 21. Earlier, in *Shakti Vahini v. Union of India* (2018), the Court had similarly emphasized constitutional protection for inter-caste and inter-religion marriages, treating attacks on such couples as a violation of Article 21.



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Recent Developments and Digital Rights

In the 21st century the living Constitution has continued to push Article 21 into new domains. Two notable trends are the protection of privacy in the digital age and the inclusion of rights specific to vulnerable groups.

- **Digital and data rights:** Most recently, the Supreme Court has held that access to digital infrastructure can fall under Article 21. In consolidated cases decided in 2025 (*Pragya Prasun & Ors. v. Union of India* and *Amar Jain v. Union of India*), petitioners challenged mandatory e-KYC procedures that were inaccessible to persons with disabilities. The Court declared that digital exclusion can deprive citizens of livelihood and essential services, thereby violating Article 21. It recognized “accessible digital-KYC” as a constitutional mandate for digital inclusion. In effect, the right to life was extended to guarantee reasonable access to online government and banking services. These rulings represent Article 21 adapting to the digital age: the Court held that “no one shall be left offline,” making inclusive technology a facet of constitutional liberty.
- **Rights of the vulnerable:** The Court has explicitly extended Article 21’s protections to marginalized groups. In *National Legal Services Authority (NALSA) v. Union of India* (2014), it held that transgender persons have the right to self-identify their gender, and governments must provide legal recognition and safeguards, under Article 21’s guarantee of dignity. In 2021 the Court recognized the right to marry irrespective of parental consent (*Laxmibai Chandaragi*). Other recent decisions include *Jacob Puliyel v. Union of India* (2022), where the Court said bodily integrity includes the freedom to refuse vaccination – an aspect of Article 21; and *Indrakunwar v. State of Chhattisgarh* (2023), which held that an accused’s silence (not testifying) cannot be used against them, reinforcing the right against self-incrimination as part of liberty. The 2023 case *Kaushal Kishor v. UP* explicitly acknowledged that the right to be forgotten (in data privacy terms) is sheltered by Article 21’s guarantee of privacy and dignity.
- **Environmental and health emergencies:** Article 21 has also been a touchstone in crises. During the COVID-19 pandemic, courts referenced Article 21 in protecting prisoners’ rights, migrants’ welfare, and informal workers’ survival. For example, while upholding many emergency measures, the courts insisted on basic fairness and health protections under Article 21. Likewise, environmental crises have repeatedly been addressed via Article 21: even in 2023, petitions about air pollution and water shortages invoked Article 21 to demand governmental action for life’s necessities.

Throughout these recent cases, the theme is clear: as society faces new challenges, the scope of Article 21 has grown. The Supreme Court’s willingness to read Article 21 expansively from bioethics to cyber space demonstrates the living-constitution doctrine in action. The right to life and liberty has proven flexible enough to cover digital inclusion, sustainable development, and emergent civil liberties.

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The Living Constitution and Article 21

In sum, Article 21 today stands far different from its original form. Where once it merely forbade the State from arbitrarily taking life or liberty, the Supreme Court has infused it with positive content, making it the lodestar of fundamental rights. The Courts have repeatedly affirmed that Articles 14 and 21 are complementary: laws affecting life and liberty must be fair under both. As Maneka Gandhi put it, fundamental rights cannot be wielded trivially by legislation, and any deprivation of life or liberty must satisfy constitutional tests.

The Indian Constitution's architects built in flexibility for example, by using broadly worded provisions and allowing amendments. The Supreme Court has taken up that mantle, ensuring that the Constitution is not a static monument but an evolving charter. In a 1996 speech, Chief Justice Kania famously noted that the Constitution is not a "straitjacket." The ongoing expansion of Article 21 exemplifies this approach. Judges have often said that the Constitution's drafters foresaw an unfinished society, expecting future generations to fill its promises. The vast array of rights now rooted in Article 21 from education and environment to privacy and digital access shows how that promise is being fulfilled through interpretation.

Notably, the Court has tempered this activism with restraint as needed. In cases like *Gian Kaur* (1996), the Court limited rights (denying an active right to die), and in others it has balanced state interests (e.g. upholding legitimate restrictions on rights under due process). But in general, the trend has been an ever-widening horizon for Article 21. Each new judgment often cites an earlier one, building a cumulative understanding of life and liberty as requiring respect for dignity, autonomy and basic human needs.

Conclusion

At law school, students learn that the Indian Constitution's genius lies partly in its adaptability. Article 21's metamorphosis over seventy years illustrates this vividly. Through a series of landmark judgments, the Supreme Court has turned a few words about life and liberty into a guarantee of a wide spectrum of human rights. The Constitution remains "living" because judges continue to interpret its meaning in light of current conditions, protecting citizens in ways the framers could not have anticipated. The evolution of Article 21 encompassing everything from the right to speedy trial to the right to be heard, from the right to clean air to the right to use online banking testifies to the dynamic spirit of Indian constitutional law. As new challenges arise, it is clear that Article 21 will keep evolving, ensuring that the right to life and personal liberty retains its central place in securing human dignity and justice in India.

