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The Right to Life and Personal Liberty

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ABSTRACT

The word “life” as engaged by Article 21 takes in its sweep not only the concept of mere physical existence by also finer values of life including the right to work and right to livelihood. This right is a fundamental right certain to all persons residing in India, citizens and non-citizens alike. Right to life including right to livelihood and work as guaranteed by Article 21 is not abridged to a mere paper tired expression but is kept alive, lively and pulsating so that the country can successfully march towards the affirmed goal of company of an egalitarian society as envisaged by the beginning fathers while enacting the constitution of India along with its preamble.

Keywords: *Article 21, Constitution of India, right to livelihood, Right to work, Right to shelter.*

I. INTRODUCTION

The right to life and personal liberty is a fundamental human right enshrined in the Constitution of many countries. It is a cornerstone of the legal system and is often considered to be the most basic of all human rights. This right is guaranteed by the Constitution and is meant to protect individuals from the arbitrary actions of the government.

The right to life is a fundamental right that is recognized by many countries. It is the right to be free from arbitrary deprivation of life by the state or its agents. This right imposes a positive obligation on the state to take all necessary measures to protect the lives of its citizens.

The right to personal liberty, on the other hand, is the right to be free from arbitrary detention or imprisonment. This right includes the right to move freely within the country and to leave the country if desired. It also includes the right to be free from torture and other forms of cruel, inhuman, or degrading treatment or punishment.²

Both of these rights are closely related to each other and are often referred to together as the right to life and personal liberty. They are essential in ensuring that individuals are able to live their lives with dignity and respect for their human rights.

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² India, legal S. (no date) *Article 21 of the Constitution of India - The Expanding Horizons*, Legal Service India. Available at: <http://www.legalserviceindia.com/articles/art222.htm> (Accessed: 28 July 2025).

In many countries, the right to life and personal liberty is protected through a system of constitutional or human rights law. This means that the state is required to respect and protect these rights, and must take steps to ensure that they are not violated. If these rights are violated, individuals can seek redress through the courts or other legal mechanisms.³

In addition to constitutional protections, many countries have also signed and ratified international human rights treaties that recognize and protect the right to life and personal liberty. These treaties create binding legal obligations on the state to respect and protect these rights, and to provide remedies for violations of these rights.

Overall, the right to life and personal liberty is a fundamental human right that is essential in ensuring that individuals are able to live their lives with dignity and respect for their human rights. It is a cornerstone of the legal system and is a key factor in promoting and protecting human rights around the world.

II. MEANING, CONCEPT AND INTERPRETATION OF ‘RIGHT TO LIFE’ UNDER ARTICLE 21

‘Everyone has the right to life, liberty and the security of person.’

The right to life is undoubtedly the most fundamental of all rights. All other rights add quality to the life in question and depend on the pre-existence of life itself for their operation. As human rights can only attach to living beings, one might expect the right to life itself to be in some sense primary since none of the other rights would have any value or utility without it.

There would have been no Fundamental Rights worth mentioning if Article 21 had been interpreted in its original sense. This Section will examine the right to life as interpreted and applied by the Supreme Court of India.

Article 21 of the **Constitution of India**, 1950 provides,

“No person shall be deprived of his life or personal liberty except according to procedure established by law.”

‘Life’ in Article 21 of the Constitution is not merely the physical act of breathing. It has a much wider sense, including the right to live with human dignity, Right to livelihood, Right to health, Right to pollution-free air, etc.

The right to life is fundamental to our very existence, without which we cannot live as human beings and includes all those aspects of life, which make a man’s life meaningful, complete,

³ Article 21 of the Constitution of India (no date) Scribd. Available at: <http://www.scribd.com/doc/52481658/Article-21-of-the-Constitution-of-India> (Accessed: 28 July 2025).

and worth living. It is the only Article in the Constitution that has received the broadest possible interpretation. Thus, the bare necessities, minimum and basic requirements for a person from the core concept of the right to life.

In **Kharak Singh v. State of Uttar Pradesh**, the Supreme Court quoted and held:

*By the term 'life' as here used, something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by amputation of an armored leg or the pulling out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world.*⁴

In **Sunil Batra v. Delhi Administration**, the Supreme Court approved the above observations. It held that the 'right to life' included the right to lead a healthy life to enjoy all faculties of the human body in their prime conditions. It would even include the right to protect a person's tradition, culture, heritage and all that gives meaning to a man's life. In addition, it consists of the Right to live and sleep in peace and the Right to repose and health.⁵

III. RIGHT TO LIVELIHOOD

The right to livelihood, also known as the right to work, is a fundamental human right recognized by various international human rights instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights. This right encompasses the freedom to choose one's employment or profession, as well as the right to just and favorable conditions of work, fair wages, and the right to form and join trade unions.

The right to livelihood is a fundamental human right recognized by many countries around the world. It is the right to work and earn a living in a way that is safe, healthy, and sustainable.

Here are a few examples of cases related to the right to livelihood:

To begin with, the Supreme Court took the view that the right to life in Art. 21 would not include the right to livelihood. In **Re Sant Ram**, a case arose before the Maneka Gandhi case, where the Supreme Court ruled that the right to livelihood would not fall within the expression 'life' in Article 21. The Court said curtly:

"The Right to livelihood would be included in the freedoms enumerated in Art.19, or even in

⁴ AIR 1963 SC 1295

⁵ AIR 1978 SC 1675

*Art.16, in a limited sense. But the language of Art.21 cannot be pressed into aid of the argument that the word 'life' in Art. 21 includes 'livelihood' also."*⁶

But then the view changed. The definition of the word 'life' in Article 21 was read broadly.

The Court, in **Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nandkarni**, came to hold that 'the right to life' guaranteed by Article 21 includes 'the right to livelihood'.⁷

The **Olga Tellis v. Bombay Municipal Corporation**, popularly known as the 'Pavement Dwellers Case', is important. Herein, a five-judge bench of the Court implied that the right to livelihood is borne out of the right to life. It said so as no person can live without the means of living, that is, the means of livelihood. The Supreme Court held that the right to livelihood was a part of the right to life guaranteed under the Indian Constitution. The case was filed by a group of pavement dwellers who were being evicted by the Bombay Municipal Corporation. The Court ruled that the government could not evict people without providing alternative housing or a means of livelihood.⁸

In **Chameli Singh v. State of Uttar Pradesh**, the SC held that the state acquired a landowner's land following the procedure laid down in the relevant law of acquisition. So even though the right to livelihood of the landowner is adversely affected, it is not violated. The Court opined that the state acquires land in exercising its power of eminent domain for a public purpose. The landowner is paid compensation in place of land. Therefore, the plea of deprivation of the right to livelihood under Art. 21 is unsustainable.⁹

Irene Grootboom v Government of the Republic of South Africa: In this case, the Constitutional Court of South Africa held that the government had an obligation to provide adequate housing to its citizens. The case was filed by a group of homeless people who argued that the government had failed to provide them with housing or a means of livelihood. The Court ruled that the government must take reasonable steps to provide access to adequate housing, including providing temporary shelter and other forms of support.¹⁰

International Labor Organization v United States: In this case, the International Labor Organization (ILO) brought a complaint against the United States for violating the right to freedom of association and the right to collective bargaining. The ILO argued that the US

⁶ AIR 1960 SC 932

⁷ AIR 1983 SC 109; (1983) 1 SCC 124.

⁸ 1985 SCC (3) 545

⁹ AIR 1996 SC 1051; (1996) 2 SCC 549

¹⁰ 2000 SCC OnLine ZACC 16,

government had failed to protect the rights of workers who were trying to unionize. The US government¹¹ settled the case by agreeing to take steps to protect the rights of workers to organize and bargain collectively.

National Federation of Independent Business v Sebelius: In this case, the Supreme Court of the United States upheld the constitutionality of the Affordable Care Act, which included a provision requiring individuals to purchase health insurance or pay a penalty. The plaintiffs argued that the requirement violated their right to livelihood, but the Court held that the government had a legitimate interest in ensuring that all individuals had access to affordable health care.

Kesavananda Bharati v State of Kerala: In this landmark case in India, the Supreme Court held that the right to livelihood was a part of the basic structure of the Indian Constitution and could not be abridged by the government. The case was filed by a group of farmers who were being evicted from their land by the state government. The Court ruled that the government could not infringe on the right to livelihood without providing adequate compensation or alternative means of livelihood.¹²

Is Right to Work a Fundamental Right under Article 21?

In **Sodan Singh v. New Delhi Municipal Committee**, the five-judge bench of the Supreme Court distinguished the concept of life and liberty within Art.21 from the right to carry on any trade or business, a fundamental right conferred by Art. 19(1)(g). Regarding the same, the Court held that the right to carry on trade or business is not included in the concept of life and personal liberty. **Thus, Article 21 is not attracted in the case of trade and business.**¹³

The petitioners in the case were hawkers doing business off the paved roads in Delhi. They had claimed against the Municipal authorities who did not allow former to carry out their business. The hawkers claimed that the refusal to do so violated their Right under Article 21 of the Constitution.

The Court opined that the petitioners had a fundamental right under Article 19(1) (g) to carry on trade or business of their choice. However, they had no right to do so in a particular place. Hence, they couldn't be permitted to carry on their trade on every road in the city. If the road is not wide enough to conveniently accommodate the traffic on it, no hawking may be permitted at all or permitted once a week.

¹¹ U.S. 519, 530-35 (2012)

¹² (1973) 4 SCC 225

¹³ AIR 1989 SC 1988

The Court also held that footpaths, streets or roads are public property intended to several general public and are not meant for private use. However, the Court said that the affected persons could apply for relocation and the concerned authorities were to consider the representation and pass orders thereon. Therefore, the two rights were too remote to be connected.

The Court distinguished the ruling in **Olga Tellis v. Bombay Municipal**¹⁴.

In **Secretary, the State of Karnataka v. Umadevi**, the Court rejected that right to employment at the present point of time can be included as a fundamental right under Right to Life under Art. 21.¹⁵

IV. RIGHT TO SHELTER

In **UP Avas Vikas Parishad v. Friends Coop. Housing Society Limited**, the right to shelter has been held to be a fundamental right which springs from the right to residence secured under Article 19(1)(e) and the right to life guaranteed under Article 21. The state has to provide facilities and opportunities to build houses to make the right meaningful for the poor.¹⁶

Upholding the importance of the right to a decent environment and a reasonable accommodation in **Shantistar Builders v. Narayan Khimalal Totame**, the Court held:

*“The Right to life would take within its sweep the right to food, the right to clothing, the right to decent environment and reasonable accommodation to live in. The difference between the need for an animal and a human being for shelter has to be kept in view.”*¹⁷ The Court advanced:

“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. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home. It is not necessary that every citizen must be ensured of living in a well-built comfortable house but a reasonable home, particularly for people in India, can even be a mud-built thatched house or a mud-built fireproof

¹⁴ *Supra* note 5

¹⁵ 2006) 4 SCC 1: AIR 2006 SC 1806

¹⁶ AIR 1996 SC 114

¹⁷ AIR (1990) SC 630 : (1990) 92 BOMLR 145 : JT 1990 (1) SC 106

accommodation.”¹⁸

In **Chameli Singh v. State of UP**, a three-judge bench of the Supreme Court had considered and held that the right to shelter is a fundamental right available to every citizen.

And the same was read into Article 21 of the Constitution. Thus, ‘right to shelter’ was considered encompassing the right to life, making the latter more meaningful. The Court advanced:

“Shelter for a human being, therefore, is not mere protection of his life and limb. It is however where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one’s head but right to all the infrastructure necessary to enable them to live and develop as a human being.”

V. CONCLUSION

Now is the time to take stock of the situation for bringing down the curtain. As seen above by a catena of decisions of the Supreme Court spread over decades it is now well settled that the word life as employed by Article 21 takes in its brush not only the concept of mere physical survival by also all finer values of life including the right to work and right to livelihood. This right is a fundamental right guaranteed to all persons residing in India as contradistinguished with only citizens covered by the sweep up of Article 19(1)(g). This right cannot be interfered with by the state save and except by a procedure emanating from a valid law which should be passed by a competent legislature and which should not come in disagreement in any of the other fundamental rights those guaranteed under Article 14 and 19 in so far as they are available to concerned person invoking such a fundamental right.

¹⁸ *Sc agrees to examine right to shelter for pavement dwellers* (no date) *The Economic Times*. Available at: <https://economictimes.indiatimes.com/news/politics-and-nation/sc-agrees-to-examine-right-to-shelter-for-pavement-dwellers/articleshow/22557015.cms?from=mdr> (Accessed: 28 July 2025).