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# **EXTENDED DIMENSION OF ARTICLE 21 IN POST MANEKA GANDHI ERA AND RECENT DEVELOPMENTS**

Authored By - Jitaksh Kachhawah & Aniket Singh<sup>1</sup>

## **ABSTRACT**

*Maneka Gandhi v. Union of India is a landmark case of the post-emergency period. This case shows how liberal tendencies have influenced the Supreme Court (SC) in interpreting the fundamental rights, particularly, Article 21. Maneka Gandhi's case has been exerting a multidimensional impact on the development of constitutional law in India. Article 21 which had lain dormant for nearly three decades was brought to life by the now famous SC decision in Maneka Gandhi. Since then, Article 21 has been on its way to emerging as the Indian version of the American concept of due process. It has become a source of many substantive rights and procedural safeguards to the people. This article focuses on the various dimensions of Article 21 and the conflicts relating to them.*

## **INTRODUCTION**

Article 21 of the Constitution of India (COI) is the most important fundamental right and its scope has evolved over time. When it first came into being it had a narrow scope and with various judicial precedents the scope of Article 21 was expanded. In the present time, Article 21 has become the backbone of the fundamental rights in our country and it has been used in various judgements to stucc down arbitrary restrictions on restraining the right to life of the citizens. The *Maneka Gandhi v. Union of India*,<sup>2</sup> is one such judgment which helped in the evolution of Article 21. *Maneka Gandhi v. Union of India* is a landmark judgment delivered by the Supreme Court of India in 1978. The Court held that the right to life and personal liberty under Article 21 of the Indian Constitution includes the right to know the reasons for arrest or detention, and the right to be heard before any order is passed that affects the life or liberty of a person. One can also say

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<sup>2</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

that the Maneka Gandhi Case gave rise to the Indian version of the concept of “Due process of law”. Since Maneka, the Supreme Court has often emphasised that Articles 14, 19, and 21 are not mutually exclusive, but rather "sustain, strengthen, and nourish each other." The Maneka Gandhi judgment expanded the scope of Article 21 and laid down the principle of natural justice, which requires that any decision that affects the rights of a person must be taken after giving them an opportunity to be heard. The judgment has been widely celebrated for its progressive interpretation of fundamental rights and its contribution to the development of constitutional law in India.

## MANEKA GANDHI'S CASE

Maneka Gandhi, a journalist, and politician had her passport impounded by the Indian government on the grounds that it was in the interest of the general public. She challenged this decision in court, arguing that she had not been given an opportunity to be heard and that the impounding of her passport was a violation of her fundamental rights. The Supreme Court, in its judgment, held that the right to travel abroad is a part of the fundamental right to personal liberty guaranteed under Article 21 of the Indian Constitution. The court also held that any procedure that takes away a person's personal liberty must be just, fair, and reasonable. The court also ruled that the principles of natural justice, including the right to be heard, must be followed while depriving a person of their personal liberty.

## IMPACT OF MANEKA GANDHI'S CASE

The *Maneka Gandhi v Union of India*, judgment expanded the scope of fundamental rights by emphasising the broader meaning and interpretation of the right to life and personal liberty under Article 21 of the Indian Constitution. The court held that the right to life and personal liberty is not confined to mere physical existence, but includes within its ambit the right to live with dignity, the right to privacy, and the right to travel abroad. The judgment also recognized the importance of the due process of law and the principle of natural justice in the protection of fundamental rights. The Maneka Gandhi judgment laid the foundation for subsequent judicial decisions that have expanded the scope of fundamental rights in India. For example, the right to privacy was recognized as a fundamental right by the Supreme Court in the landmark judgment of *Justice K.S. Puttaswamy (Retd.) and Another v. Union of India (2017)*.<sup>3</sup> Similarly, the right to live with dignity

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<sup>3</sup> K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

has been recognized in cases relating to custodial violence, sexual harassment at the workplace, and the rights of transgender persons. Prior to this judgment, the power of judicial review was not explicitly mentioned in the Indian Constitution. However, the judgment reaffirmed the importance of judicial review in protecting fundamental rights and recognized it as an inherent part of the constitutional framework. The court held that the courts have the power to examine the validity of executive and legislative actions that affect the rights of citizens. This principle has been subsequently applied in numerous cases to ensure that executive and legislative actions are not arbitrary, capricious, or violative of fundamental rights. The Maneka Gandhi judgment also reaffirmed the importance of the judiciary as an independent and impartial arbiter of disputes, and recognized its role in upholding the rule of law and protecting the rights of citizens. In subsequent cases, the power of judicial review has been used to strike down laws that are unconstitutional or violate fundamental rights, and to ensure that executive and legislative actions are taken in a fair and just manner.

The court also held that the principles of natural justice and due process of law are essential components of the right to life and personal liberty under Article 21 of the Constitution. It observed that any law or procedure that deprives a person of his or her life or liberty must be fair, just and reasonable, and must follow the principles of natural justice. The Maneka Gandhi judgment laid down the framework for the protection of due process rights in India. The courts have also developed procedures for protecting personal liberty, such as the writ of habeas corpus, which allows a person to challenge unlawful detention. The judgment has also influenced the development of other procedural safeguards in Indian law. For example, the right to a fair trial, the right to be heard, and the right to representation have been recognized as part of the principles of natural justice and due process of law.

## **NEW DIMENSIONS OF ARTICLE 21**

Article 21 guarantees everyone's right to life and liberty. The term "life" has taken on a comprehensive meaning. The phrase "personal liberty" has been given a very broad amplitude, including a number of rights that contribute to a citizen's personal liberty. Its deprivation shall only take place in accordance with the relevant method specified in the applicable legislation, but the procedure must be fair, as Article 21 utilises essential phrases, like "life," and "personal liberty," Both of these expressions have been explained in detail below:

## *Life*

The court in *Maneka Gandhi* recognised the broad scope of the right to life, ruling that it includes the right to live with dignity, personal liberty, and the freedom to travel abroad. This ruling paved the way for a broader interpretation of the right to life under Article 21. In following judgements, the Supreme Court has ruled that the right to life encompasses the right to a healthy environment, the right to an education, and the right to a living wage. The *Maneka Gandhi* decision has also been referenced in matters affecting the right to privacy, free expression, and personal autonomy. The Supreme Court in *Francis Coralie v. Delhi*,<sup>4</sup> stated that “expression 'life' in Article 21 does not connote merely physical or animal existence but embraces something more. "We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessity of life such as adequate nutrition, clothing and shelter over their head”. In *Shantisar Builders v. Narayanan Khimalal Totame*<sup>5</sup>, the Supreme court observed that “the right to life under Article 21 would include the right of food, clothing, decent environment and reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view.” Further, Supreme Court in *Olga Tellis v. Bombay Municipal Corporation*,<sup>6</sup> emphasises the term life in Article 21 is not only restricted to the mere existence of a person but means something more and is “the inhibiting against the deprivation of the life extends to all those limits and faculties by which life is enjoyed”. What all the above cases have in common is that the Supreme Court has interpreted the term “life” in a broad manner according to the need of the particular time and circumstances.

## *Personal Liberty*

Personal liberty, the court recognised, is not limited to bodily restriction, but also includes diverse characteristics of individual freedom such as freedom of thinking, conscience, and ideas. The Court ruled that the term 'personal liberty' is used as a compendious term to include within itself all the varieties of rights which go to make up the "Personal Liberties".

*Justice Bhagwati* observed in *Maneka Gandhi* that „the expression „personal liberty” in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have been raised to the status of distinct Fundamental Rights and given additional protection under Article 19”.<sup>7</sup> The Supreme Court in *Satwant Singh*

<sup>4</sup> Supreme Court in *Francis Coralie v. Delhi*, AIR 1981 SC 746, 753.

<sup>5</sup> *Shantisar Builders v. Narayanan Khimalal Totame*, (1990) 1 SCC520 : AIR 1990 SC 630.

<sup>6</sup> *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180 : (1985) 3 SCC 545.

<sup>7</sup> *State of West Bengal v. Ashok Dey*, AIR 1972 SC 1660.

v. *APO*,<sup>8</sup> said that the freedom to go abroad was deemed to be an aspect of an individual's "personal liberty," and so no one may be denied his right to travel except in accordance with the legal system. Because a passport is required to exercise that right, denial of a passport amounts to deprivation of personal liberty. A 2009 decision reaffirms that tight limitations of 'personal liberty' cannot be defined while simultaneously ordering that such liberty must accommodate public interest. The freedom of a woman to make reproductive choices has been defined as a facet of "personal liberty" under Article 21. The court in the respective judgement observed that "women's right to make reproductive choices is also a dimension of personal liberty as it directly affects a woman's right to privacy, dignity and bodily integrity which is crucial to consider."<sup>9</sup> These cases illustrate how the Maneka Gandhi case has had a far-reaching impact on the interpretation of personal liberty under Article 21.

## RECENT DEVELOPMENTS

The Supreme Court has been interpreting the scope of Article 21 according to the needs of modern times, since the advent of the Maneka Gandhi Case. Following are the most important recent development in the field Article 21:

- 1) *KS Puttaswamy v. Union of India* (2017): This landmark case recognized the right to privacy as a fundamental right. The court held that the right to privacy is an essential aspect of personal liberty under Article 21.
- 2) *Navtej Singh Johar v. Union of India* (2018):<sup>10</sup> In this case, the Supreme Court struck down Section 377 of the Indian Penal Code, which criminalized consensual homosexual activities. The court held that the criminalization of same-sex relations violated the right to personal liberty and privacy under Article 21.
- 3) *Shayara Bano v. Union of India* (2017):<sup>11</sup> In this case, the Supreme Court held that the practice of triple talaq (instant divorce) in Muslim personal law was unconstitutional as it violated the right to dignity and personal liberty of Muslim women.
- 4) *Common Cause (A Regd. Society) v. Union of India*:<sup>12</sup> In this case, the Supreme Court recognized the right to die with dignity as a fundamental right under Article 21 and upheld the constitutional validity of passive euthanasia.

<sup>8</sup> *Satwant Singh v. APO*, AIR 1967 SC 1836.

<sup>9</sup> *Suchita Srivastava v. Chandigarh Administration*, (2009) 9 SCC 1 : AIR 2010 SC 235.

<sup>10</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>11</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

<sup>12</sup> *Common Cause (A Regd. Society) v. Union of India*, (2018) 5 SCC 1.

- 5) In *People's Union for Civil Liberties v UOI*,<sup>13</sup> it was held that the Right to Food is essential and states cannot escape the responsibility of ensuring it.
- 6) In *Chameli Singh v State of U.P.*,<sup>14</sup> it was considered that broadening this very Article provides a new meaning to it in respect of the right to shelter by the Apex court. To make the poor's rights legitimate, the state must give housing facilities and opportunities. Because it is the State's constitutional duty to provide housing for the needy, acquiring land for the purpose of providing house sites for the impoverished is a public purpose.

## CONCLUSION

The impact of the Maneka Gandhi case has been far-reaching and has influenced several subsequent judgements related to the interpretation of Article 21. The case has been cited in many subsequent judgements, including the *K.S. Puttaswamy* case, *Olga Tellis* case etc, along with the *Common Cause* case, which dealt with the right to die with dignity. Several legal experts and scholars have also praised the Maneka Gandhi judgement for its contribution to the development of constitutional law in India. For example, V.N. Shukla, in his book "Constitutional Law of India," called the judgement a "milestone" in Indian constitutional history and praised the Supreme Court for "breathing life" into Article 21. The judgement was a very significant development for introducing the concept of due process and expanding the scope of Article 21 beyond mere physical existence. The overall effect of the judgement was huge on Article 21 and the constitution itself and it was also necessary. But now the question remains, is it enough? Maneka Gandhi Case was referred in many judgement and even at recent time the judgements are based on the scope set by Maneka Gandhi Case but it doesn't necessarily mean that our judiciary as well as the legislature has been confined to the scope set by Maneka Gandhi Case. With the recent development in technology the functionality of state is changing and the scope and applicability of Article 21 should be expanded when required. In the light of aforementioned article it could be observed that Maneka Gandhi was a very significant case for the development of the overall Constitution of India.

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<sup>13</sup> *People's Union for Civil Liberties v UOI* [2004] 2 SCC 476.

<sup>14</sup> *Chameli Singh v State of UP* [1996] 2 SCC 549.

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