

**DECIPHERING ‘LIBERTY’ UNDER ARTICLE 21 OF THE INDIAN
CONSTITUTION**- Karan Garewal¹**ABSTRACT:**

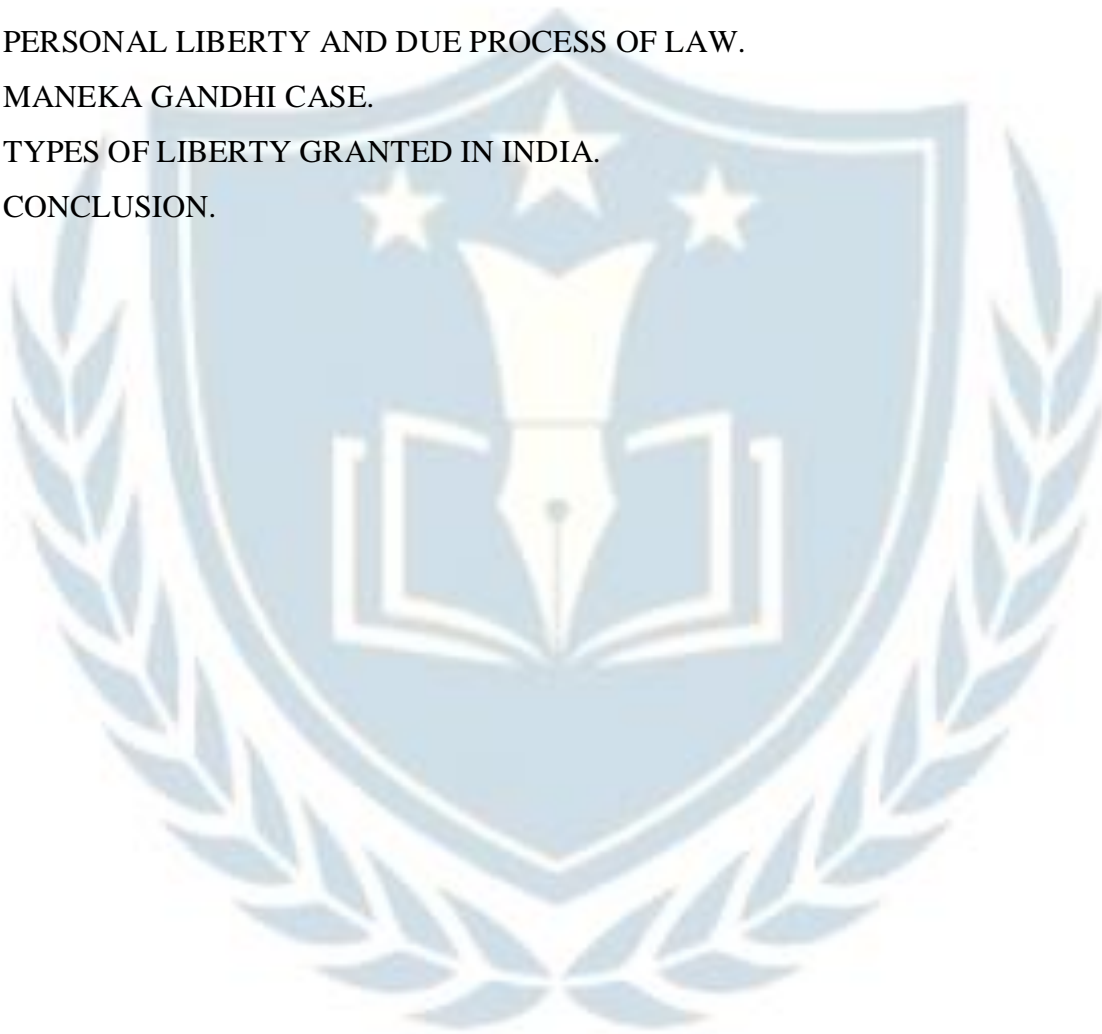
The Indian Constitution enacted on 26th of January, 1950 had main focus on guaranteeing the Fundamental rights of the citizen of the country. Part III of the Indian Constitution deals with fundamental rights of the citizens and non citizens in the country. The Indian constitution guarantees Right to life and personal liberty under Right to freedom (Article 19 to 22). Right to life and personal liberty in accordance with due procedure established by law is guaranteed under this Article. This right is available to both citizens and non citizens residing in the nation. In this paper we will study and analyze the several interpretation concluded by the Hon’ble court with regard to Liberty under Article 21 of the Constitution of India. Interpretation of Article 21 has been expanded by the time with various Case laws and judicial precedents. The Analysis of Maneka Gandhi case has been done in this research paper to understand the scope of liberty and procedure established by law under Article 21 of Indian Constitution.

Keywords: Indian Constitution, Fundamental Rights, Liberty, Article 21, Judicial Evolution.

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RESEARCH OBJECTIVES:

- To analyze, the ambit of Article 21 of the Constitution with respect to Liberty.
- To analyze, the case laws like Maneka Gandhi to interpret due process of Law.
- To analyze, various types of liberty give under ambit of article 21 with reference to case laws.

RESEARCH METHODOLOGY:

This research paper has been based on Doctrinal and Analytical method. Keeping this in view, the researcher has gone through various relevant sources and primary sources. The relevant materials have been collected from Articles, E journals, Bare Act and relevant reference books of the Constitution and classroom study for the purpose.

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CHAPTER I - INTRODUCTION:

The Indian Constitution provides Fundamental Rights under Part III which guarantees these rights to the person residing in India. Under Article 13 of the Indian constitution, it is said that, any law in derogation of the Fundamental rights shall be void, which generally means that fundamental rights is the basic need of the people of India and cannot be infringed in any instance.² But during emergency in 1975 it was suspended by the government which threatened the idea of the constitution for safeguarding the Fundamental rights. After the 44th Amendment in 1978³ just after the tragic National emergency in which every fundamental rights were suspended and mass number of Human rights violations, it was formulated that Article 20 and Article 21 of the Indian Constitution cannot be suspended even if there is any sort of emergency. In the earlier point of view of interpretation, Article 21, it can only be interpreted only on the loss of Life and Personal liberty which was modified with the judicial precedents. Article 21 is not only related with right to life and personal liberty but also with procedure established by law. Due to purposive interpretation, it is definitely possible to expand its interpretation of Article 21 includes right to livelihood like these, right to shelter, right to food, clean water, healthy environment. In the Case of *KS Puttuswamy vs. Union of India*, it was contended that Right to Personal liberty will also include right to Privacy of an individual under article 21 of the constitution which also include telephonic conversations too and Privacy in home and office.⁴The Doctrine of Purposive interpretation sometimes refers to as the purposive construction of the statute and purposive interpretation differs in case to case basis, by this doctrine statutory and constitutional provisions are interpreting an enactment. Doctrine of constitutional silence, interprets the non written aspect of the provisions of the constitution which endures the power to understand beneath the statutes and provisions. The Doctrine of golden interpretation means the procedure of interpretation in a reasonable manner of a statute or provision. It aims to provide a spirit of law and justice by the correct interpretation of a law and used in decisions taken in the judgment under the provision of Article 21 of the Constitution.

² The Constitution of India, 1950, Article 13.

³Sathe, S. (1976). Forty-Fourth Constitutional Amendments. *Economic and Political Weekly*, 11(43), 1702-1708. Retrieved April 30, 2021, from <http://www.jstor.org/stable/4365041>

⁴ *KS Puttuswamy vs. Union of India*, (2017) 10 SCC 1

These three doctrines are necessary to interpret the expansion of Article 21 of the Constitution. Article 21 can be said a dynamic article whose interpretations and ideas are changing with time and context of the people and society which is changing but firm on Equality, Fraternity, Liberty and Justice. Justice Chelameshwar said Article 21 is a constant changing provision and interpreted on case to case basis when dire need of the doctrine of interpretation and the scope of this article is so descriptive that its interpretation is endless and overall need to interpret this article on different viewpoints is to serve the justice by keeping the Basic structure intact. Article 21 is to prevent the violation of fundamental rights with respect to the procedure established by the state which should be reasonable in nature.⁵ Before the case of Maneka Gandhi, the term 'law' only depicts the executive actions but not the legislative actions. In the case of AK Gopalan, the primitive law term was followed. After the Maneka Gandhi case judgment, the term 'law' means *Lex* which means the principle of natural justice and law. The procedure established by the law should not be the arbitrariness of the state but hence to be reasonable enough. The rights provided under article 21 are bound only on state but not the private entity. Private entity would not fall under these criteria of procedures and personal liberty and life and should not fall under the ambit of Article 21 of the Indian Constitution. But it shall fall under Article 226 of the state fund or on the direction of the state shall fall under the ambit of this provision because there state is a functionary or state has some control over it. For the first time in the instance, a law is safeguarding the Human dignity, and some basic needs like shelter, clothing, food, education under the umbrella of Article 21 of the constitution which include right to livelihood, right to education as it partner provisions. Article 21 has been broadly interpreted to include right to clean and healthy environment, as a clean environment is a means to provide livelihood to people and if the means of livelihood are taken away or gets polluted it is in turn taking away the right to life violating the protection of right under Article 21. When Article 21 is read alongside with the constitutional duties provided by the constitution it indicates that it is on the state to attend to while enacting laws and giving judgments that the essence of the constitution is upheld and kept alive.

⁵*Right to privacy a fundamental right*, THE WIRE, Retrieved April 30, 2021 2 pm from <https://thewire.in/law/supreme-court-aadhaar-right-to-privacy>

HISTORICAL BACKGROUND:

The way a democratic country runs can be judged by its laws of liberty. The laws related to life and personal liberty is much necessary for a human being as his livelihood is dependent on his life and liberty. In Britain, the first charter for fundamental rights was introduced in 1215 which was Magna Carta. The development of fundamental rights in India was inspired by England's bill of right (1689), the USA Bill of rights (1791) France's Declaration of Rights of Man (1789). Under Rowlett Act, 1919 broad power were given to the British Government and the police which brought about arrest and detainment of the people, warrant less pursuits and seizures and furthermore limitation on open social meetings.⁶ At last this brought about mass gatherings of peaceful civil disobedience movement all throughout the country. Individuals of the nation requested common freedom rights and limits on government powers. These were affected by the Independence of Ireland. The Constitution of Ireland and the Directive Principles of the State Policy were a motivation for individuals of India for the interest of independent government. The Nehru Commission in 1928 acting as a representative of Indian ideological groups proposed protected changes for India. The Constituent Assembly of India making out of those representative was given task to the makeup or of building up a Constitution for the country. The Constituent Assembly initially met on 1946, which were in vast majority designated people from different political ideologies or background for building up the Constitution of India, administrators of councils and sub-committee of academicians answerable for various subjects. A striking advancement during that period having huge impact on the Indian constitution occurred on 10 December 1948 when the United Nations General Assembly embraced the Universal Declaration of Human Rights.⁷

The framers of Constitution of India were profoundly impacted by the global report and influenced by United Declaration of Human Right (UDHR) 1948 which incredibly affected the drafting of Indian constitution. The Article 9 of UDHR accommodates “assurance of life and

⁶Rowlett Act, 1919, OXFORD REFERENCE, Retrieved April 30, 2021 from <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100431140>

⁷ United Nation Declaration of Human Rights, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

personal freedom” of each individual.⁸ As India was signatory to the United Nations, the constituent Assembly embraced the comparable arrangement as a basic right in that. The Hon’ble Supreme Court saw that the UDHR may not be a lawfully restricting instrument yet it show how Indian comprehended the idea of Human Rights when Constitution was made. Article 21 is the better provision of the Indian Constitution and possesses a remarkable spot as major rights.



⁸ Article 9, United Nations Declaration of Human Rights.

CHAPTER II - LITERATURE REVIEW:

In an article titled, *Right to Human Dignity to convict under Shadow of Death and freedom behind the bars in India* by KI Vibhute. Criminal law can be said a coercive law which not just fixes risk for an offense and marks the wrongdoer as a convict yet additionally forces deprivation regarding freedom of liberty through detainment. Be that as it may, a convict detainee can't be stripped of his basic rights and liberties - they may suffer shrinkage because of the reality of imprisonment yet they never disappear. The constitutional and legal protections follow the convict in the jail too. Human respect which inheres in people has been alluded to, and frequently depended upon, by courts in India to refine organization of criminal and reformatory justice to make it more empathetic. The courts have been advancing the human rights law inside the corrective framework. This turns out to be considerably more critical if there should be an occurrence of convicts condemned to death. The courts in India have been noticing with these issues and have put article 21 of the Constitution.⁹

In an article titled, *Judicial Activism*, MM Semwal and Sunil Khosla. Judges should be now and again mindful and at times bold. Judges should regard both the practices of the past and the convenience of the current Judges should accommodate freedom and liberty; the entire and its parts. Fair, independence and positive justice is the establishment of the effectiveness of the public authority. Government has the right of the assembly being a famously chosen body of individuals. The Executive is liable for the legitimate authorization of the laws made by the parliament. Be that as it may, when the governing body doesn't bother over the rights and freedoms of the people and the leader gets detached in the issue of execution of the laws, the judiciary is the simply way out to go about as the driving force of social government assistance to get justice for each individual in the different circles of life whether it is child labor or climate

⁹Vibhute, K. (2016). RIGHT TO HUMAN DIGNITY OF CONVICT UNDER 'SHADOW OF DEATH' AND FREEDOMS 'BEHIND THE BARS' IN INDIA: A REFLECTIVE PERCEPTION. *Journal of the Indian Law Institute*, 58(1), 15-54. Retrieved April 30, 2021, from <http://www.jstor.org/stable/45163060>

or basic liberties. Judicial activism is only an extended job of the executive as it envelops a space of the administrative vacuum.¹⁰

In an article titled, “*A Critical Analysis of Right to Life and Personal Liberty under Article 21 of Indian Constitution*”, by BS Garje. Right to life and personal liberty is the most valued and important key basic liberties around which different privileges of the individual spin along these lines, the interpretation or deciphering accepts incredible importance. The interpretation of right to life is without a doubt a deciphering of the Supreme Court as a gatekeeper of key liberties and freedoms. Article 21 is the key provision of the Indian Constitution and possesses an exceptional spot as a major right. It ensures right to life and personal liberties to residents and non residents and is enforceable against the State. The new understanding of Article 21 in Maneka Gandhi case has guided another time of development of the skylines of right to life and personal freedom.¹¹

In an article titled, *Privacy as a Fundamental Right*, by Aastha Ummat. Mostly every of the countries perceive the right to privacy unequivocally in their Constitution. In nations like the United States, Ireland, and India, where this right isn’t expressly referenced in the Constitution, it is a natural part of some different provisions. Basic rights are fundamental rights that each individual is qualified for, and such rights ought to be available with each resident of the country alongside proper remedies. Article 21 of the Constitution of India expresses that “No person will be denied of his life or personal liberty besides as prescribed by the procedure set up by law”. The extent of Article 21 has been augmented over the course of the years to decipher that the term ‘life’ incorporates all parts of life that make an individual’s life significant, complete just as worth living.¹²

¹⁰Semwal, M., & Khosla, S. (2008). JUDICIAL ACTIVISM. *The Indian Journal of Political Science*, 69(1), 113-126. Retrieved April 30, 2021, from <http://www.jstor.org/stable/41856396>

¹¹ BS Garje, (2013), *Critical analysis of right to life and personal liberty under article 21*, SHODHGANGA, Retrieved April 30, 2021 2 pm from <http://hdl.handle.net/10603/13812>

¹² Aastha Ummat, *Privacy as a fundamental right*, LAW TIMES JOURNAL, Retrieved April 30, 2021, 3 pm from <https://lawtimesjournal.in/privacy-as-a-fundamental-right/>

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ARTICLE 21 OF THE CONSTITUTION OF INDIA:

“Protection of Life and Personal Liberty: No person shall be deprived of his life or personal liberty except according to procedure established by law”¹³.



¹³ The Constitution of India, 1950, Article 21. Right to life and personal liberty.

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CHAPTER III- ANALYSIS:

PERSONAL LIBERTY AND DUE PROCESS OF LAW:

The word liberty is derived from Latin word 'Liber' which means Free. Free to thought, free to move, free to livelihood and many more. In this sense, Liberty generally means independent of restraints and no interference and freedom to do one likes. But in some parts the word Liberty sense as a negative term. The right to liberty is one of the most important fundamental for develop given to an individual which is valued more. The fact is that, without liberty, no rights can be enjoyed by an individual and no rights can be real. Liberty is most loved kind of right enjoyed by the individuals.

Due process of law generally is a substantive due process. Due procedure of law generally mean the process, law and procedure and this should be reasonable to the natural justice. With the matter of time in context to India, this term sounds too vague and unreasonable and so changed in India. It was replaced by the phrase Procedure established by law which means If a law is in force, its procedure for implication should be given and followed.¹⁴ The procedure established should be viable and reasonable in context with natural justice. In the case, *AK Gopalan vs. State of Madras, 1950*¹⁵. The legitimacy of the Preventive Detection Act, 1950 was tested. The primary concern was whether Article 21 envisaged any procedure set a law enacted by the legislative but it was held that the procedure enacted by executive will only be protected under Article 21. So, article 21, does not guarantee or immunity against a legislative procedure or law.

MANEKA GANDHI VS. UNION OF INDIA (1978):

Then in 1978, right after the emergency a case came up, this case became a Landmark case on the issue of due process of law or procedure established by law. The Hon'ble Supreme Court's *ratio decidendi* in the case of Maneka Gandhi can be said a vulnerable point in the interpretation of Article 21 of the Constitution of India to a broader perspective of the fundamental rights guaranteed under this article. Maneka Gandhi applied for a passport under the Passport Act in

¹⁴ Due process of Law, BHARATI LAW REVIEW, 2014 Retrieved April 30, 2021 3 pm from <http://docs.manupatra.in/newslines/articles/Upload/C64E2EB3-321D-470D-A4C8-0EE5E55BA21A.pdf>

¹⁵ AK Gopalan vs. State of Madras, AIR 1950 SC 27.

1976 and got the passport. In 1977, Maneka Gandhi wanted to attend a meeting and to give a speech in a foreign country. Then she received a letter from the Government of India that her passport gets terminated because of some issue of Public interest under Section 10(3) (c) of the Passport Act¹⁶. Then she asked the reason from the government that how her passport gets terminated but Government denied the request and said it is not in the public interest. Maneka Gandhi then filed a writ petition under Article 32 in the Supreme Court¹⁷ challenging the move of the government by terminating her passport and when she asked the reason for the same, the government denied. The court held that, Fundamental rights is an integral part of the constitution and articles which deal with fundamental rights given under Part III of the constitution does not represent different rights but are integrated to one in the same. They must (the articles) be co-related to each other and interpreted together to get through the justice and enforcement of the fundamental rights without any kind of discretion.¹⁸ Analyzing an article different without using the context of the other is not good for human rights and if it is protecting the purpose of other is not beneficial for the society as well as the Justice system. The Court stated that the Articles under Part III of the constitution are read together to get the justice and merely a law satisfying the one fundamental right is exempted to follow the other fundamental rights. It also contended that if a law is dedicated to a specific fundamental right and complied with all its necessities, the law also needs to satisfy other fundamental rights and its requirement. The court also held that, the procedure established by any law must be 'fair, just and reasonable' with context to the fundamental rights of the citizens. By procuring this level of interpretation an order was passed by the court that this move of government is infringing the Right to Equality under Article 14 and Right to Liberty under Article 21 of the Constitution of India and held the order passed by the government as arbitrary. The question arose in front of the Supreme Court was that, if a law satisfies all procedural or due process of functioning to its enactment, is required to pass the procedure of Article 21, whether it is Arbitrary and unreasonable. In this case, the Court turned itself into a savior of the constitution rather than acting as a supervisor of the constitution and vested its substantive power in Article 21 of the constitution. The Simple view, the court held in

¹⁶ The Passport Act, 1967 Section 10(3) c.

¹⁷ The Constitution of India, 1950, Article 32.

¹⁸ Maneka Gandhi vs. Union of India, 1978 SCR (2) 621.

this case is that, A Law which is arbitrary or based on discretion is no law and the procedure to follow and functioning of the law should be reasonable enough that can not hamper any fundamental right. The Judgment of the Supreme Court pretty much resembles to the 5th amendment of the US Constitution¹⁹ in Maneka Gandhi case which states that, “procedure established by law ‘would have the same effect as the expression due process of law and would read as: no person shall be deprived of life or personal liberty except according to fair, just and reasonable procedure established by law.” This case seems to be as the dynamic interpretation of the Article 21 and Right to Liberty of the Constitution. This case was important in the context of changing the interpretation of a dynamic law, and court acted in the form of judicial activism.

TYPES OF LIBERTY:

LIBERTY OF BODY: This has been categorized into several parts regarding the liberties provided at the time of Arrest, liberties to get a speedy trial, liberties in getting Bail, liberties regarding Handcuffs, liberties regarding Solitary confinement, liberties granted for delayed conviction of an accused and procedures regarding payment of the compensation. Each of the issue is backed by a Landmark judgment.

1. **ARREST:** In the Case, *Joginder Kumar vs. State of Uttar Pradesh*, The Hon’ble Supreme court contended that the police officer should be satisfied and justified to arrest a person on the basis of some prior investigation and the reason for arrest should be mentioned in initial police record and should be told to the accused before the arrest and arrest should normally be avoided except the case of some grievous crimes. The arrest should not only be made on mere suspicion on the person. The arrested person shall be presented before the magistrate in 24 hour of the arrest made²⁰.
2. **SPEEDY TRIAL:** In the case, *Hussainara Khatoon and Ors. Vs. State of Bihar*, The court held that, the state is under a mandate provided by Article 21 of the constitution for speedy trial of an accused under Right to Liberty. The state should not run out of the responsibilities by pleading the unnecessary excuse of Financial and administration

¹⁹ 5th Constitution Amendment is USA- “No person shall be deprived of his life, liberty or property without due process of law” https://www.law.cornell.edu/constitution/fifth_amendment

²⁰ *Joginder Kumar vs. State of Uttar Pradesh*, 1994 SC (4) 260.

issues. The Supreme Court is acting as a guardian of the fundamental rights of the citizens and may issue guidelines to the state for speedy trials of accused. State can cope up with this situation by making more fast track courts and can smooth the functioning machinery by appointment to more judges so the cases can be piled up early and justice delivered.²¹

3. BAILS: In the case, *Babu Singh vs. State of Uttar Pradesh*, The Hon'ble Supreme Court held that Bail is a right to liberty of the accused under Article 21 of the Constitution makes it's a matter of grave concern on the aspect of liberty to the accused. Deprivation of liberty in Article 21 is only allowed when the restriction is reasonable and for the community good. The state should answer the test of reasonability for not granting the bail to the bail applicant. The Court assumes that if a man get a bail during his trial, he can get a better chance to prepare his case better than in the custody. Thus, conditions may be hung around bail orders, not to cripple but to protect. Such is the holistic jurisdiction and humanistic orientation invoked by the judicial discretion correlated to the values of our constitution²².
4. LIBERTIES ON HANDCUFFS: In the case, *Prem Shankar vs. Delhi Administration*, Punjab Police Rules, some clauses of these rules were challenged in the Court which validating the Handcuffs which put on the hands of the accused while arresting him. It was held that the safeguarding of human dignity is the major concern to Right to Liberty under Article 21 of the constitution and the state cannot diminish the dignity and integrity of an individual. Handcuffing a man can be more than mortifying him. Handcuffing can be seen as dehumanize the individual and violates his personhood mentally. The Supreme Court always took a stand on condemning the unusual use of the handcuffs by police, which is violative of personal liberty of an individual under article 21 of the Constitution²³.
5. SOLITARY CONFINEMENT: In the case, *Sunil Batra vs. Delhi Administration*, the Court held that, there is an authority of the court to safeguard the rights of the prisoners

²¹ Hussainara Khatoon vs. State of Bihar, 1979 SCR (3) 532.

²² Babu Singh vs. State of Uttar Pradesh, 1978 SCR (2) 777.

²³ Prem Shankar vs. Delhi Administration, 1980 SCR (3) 855.

from inhuman and brutal treatment. Jail authority does not have a right to torture and punish the prisoners. In accordance with Police Act, Section 30(2), it was made clear that this section is violative of the Article 21 and violates the Right of personal liberty. Freedom of liberty of the prisoners can only be curtailed when it is given under law and necessity. As in the law, there is not any mandate to solitary confine a prisoner which can be generally seen as the violative of natural justice and can mentally affect the prisoner, at last he is also a human²⁴.

6. DELAYED CONVICTION: In the case, *Shatrughan Chauhan vs. Union of India*, the court contended that mercy jurisprudence is a part of the justice system and as India is the largest democracy, it become more important to safeguard the rights of the prisoners too. Even a culprit or convict also has some rights and liberties given under the constitution and it's the duty and diligence of the court to safeguard it. The Hon'ble court had a view that undue and unreasonable delay in executing the death sentence can lead to the mental torture of the convict which can be seen as the violation of Article 21 of the Indian Constitution and it can be said a valid ground for commutation of the sentence. Without a reasonable delay without acceptable reasons the delay of 12 years is more than enough to create a panic in the mind of the convict. Hence, Commutation of death sentence is turned into life imprisonment.²⁵
7. PAYMENT OF COMPENSATION: In the case, *Rudul Shah vs. State of Bihar*, the court held that if a person is detained for 14 year after his acquittal, it definitely hampers his right of personal liberty under Article 21 of the Indian Constitution. The court can pass an order regarding allotment of compensation by the state given to the accused person as he is deprived of his fundamental right under article 21 of the constitution and if the state refused to grant him the compensation then it would be more tragic to him and violative of his fundamental right of liberty to an extent. If the person is illegally detained then he is worthy of compensation by the state as mandate under Article 21.²⁶

²⁴ Sunil Batra vs. Delhi Administration, 1980 SCR (2) 557.

²⁵ Shatrughan Chauhan vs. Union of India, 2014 3 SCC 1.

²⁶ Rudul Shah vs. State of Bihar, 1983 4 SCC 141.

LIBERTY OF MIND: Right to Mental liberty and conscience, is the freedom of a person to control their own mental processes, it can be said as the extension of the Right to thought. Various groups have different thoughts and perspective and it is their fundamental right to profess it. Like legalizing homosexuality for LGBTQ community is their own right to personal liberty. At this time, Indian society has been evolving, by welcoming these progressive libertarian thoughts will definitely help in evolution.

In the Case, *Naz Foundation*, the court contended that, by limiting the LGBTQ community rights by Section 377 of IPC was unreasonable and violative of their fundamental rights guaranteed under article 21 of the constitution as they are also entitled to Right to personal liberty. LGBTQ community people suffered extensive torture from the society and harassment from the society. They face discrimination and harassment from the society and from the State, although this move of the court will definitely help them against violation of their fundamental rights and human rights.²⁷

In the case, *NALSA vs. Union of India*, the court contended that According to the Article 21 of the Constitution, “no person shall be deprived of his Right to life and personal liberty except procedure established by the law”, this provision safeguards the person’s right to life and personal liberty, by which the person life will be getting better livelihood including a person’s right of self determination of the gender to which an individual belongs. The court held that Transgender is considered as the third gender and would get the equal rights as to the other two genders under the constitution of India.

In the case, *Joseph Shine vs. Union of India*, Right to live with dignity is a fundamental right under article 21 of the constitution and includes right not be public several disapproval and punishment by state except where required. The state should make and consider whether the civil remedy will serve the purpose and should examine such conduct. This provision is violative of the rights of life and personal liberty as this section was gender biased. This law definitely infringes the fundamental rights given under part III of the Indian constitution. It is difficult to

²⁷ Naz Foundation vs. NCT of Delhi, 160 Delhi Law times 277.

identify the boundary line of the personal liberty. The freedom to consensual intercourse can be said right to life and personal liberty under article 21 of the Constitution of India.²⁸

In the case, *KS Puttuswamy vs. Union of India*, the court upheld the fundamental right of Privacy of personal liberty under Article 21 of the Indian Constitution and also stated that Privacy of an individual is an integral part of Article 21 and part III of the Constitution. The state must ensure the fundamental rights of the citizens should not taken away by any law passed by the parliament and should be abiding by the constitution. The court also contended that right to privacy is not an absolute right under personal liberty and if a legislature has passed some laws infringing anybodies privacy should pass the test of reasonability which includes legitimacy, proportionality and legality. The right to privacy can be said an intrinsic part of article 21 of the constitution under Part III of the Indian Constitution.²⁹

²⁸Joseph Shine vs. Union of India, Writ petition no. 194 of 2017.

²⁹ KS Puttuswamy vs. Union of India, (2017) 10 SCC 1

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CHAPTER IV - CONCLUSION:

Article 21 of the Constitution says, No individual will be denied of his life or personal liberty besides as procedure set up by law. Maneka Gandhi's case isn't just a milestone case for the understanding of Article 21 yet it additionally gave a totally new perspective to take an interpretation at the Part III of the Indian Constitution. Preceding Maneka Gandhi's case, Article 21 ensured the right to life and personal liberty just against the subjective authority of executive and not from the Legislature activity. Comprehensively talking, what this case did was broaden this protection of rights against Legislature activity as well. In Maneka Gandhi's case, the significance and substance of the words "personal liberty" again came up for the thought of the Supreme Court. For this situation the Supreme Court not just overruled A.K. Gopalan case yet in addition extended the extent of words 'Personal liberty'. After that the significance of Article 21 right to life and personal liberty has changed multidimensional methodologies and arrived at the new skyline. However, Judicial activism prompts some great errors and in some cases it additionally reflect that when legal activism crosses its cutoff points and starts turning out to be judicial adventurism and it appears as 'judicial overreach'. Article 21 is a dynamic article in the constitution of India which continually advances like a creature and acquires the attributes of dynamism that provides food the requirements of the general public. "The Ambit of right to life and personal liberty continues growing and will develop further in future through different legal frameworks and authoritative sanctioning. It serves in as an under-stream that contacts each basic right under Part III of the Indian Constitution. Based on sensibility and non-arbitrariness and the standards of characteristic justice which are cherished inside the Ambit of article 21, numerous rights have been developed till date by the Hon'ble Supreme Court's showed up in its decisions. Some different rights under the ambit of Article 21, which have been advanced through different points of reference of Apex Court, yet have not been canvassed in detail in this review are: more right than wrong to climate, Right of arrest, right to speedy and reasonable proceedings, right against indecent behavior and sexual harassment, Rights against handcuffing, right to medical consideration, Right to food and right against malnutrition health, right against custodial torture, right not to be exposed to bonded labor, right to free Legal Aid, rights against Solitary

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confinement or separate confinement”, rights against bar chains, right to uncontaminated drinking water, right to have a good reputation in the society.

The idea of Human Rights have developed since 539 BC and have evolved since then from nations to nations and states to states yet the exceptionally essential importance and aim stays flawless i.e., each person came into the world on this Earth is qualified for a group of rights which no one can take from them these rights are available for being a human with no other sort of thought. “The International legal stage has done allot to inbuilt Human Rights and spread the information about it to Nations and have urged them to make provision and laws to protect Human Rights. India was one of the first signatories in the International Agreement on Civil and Political Rights. The Preamble of Indian Constitution makes reference to the pride of each individual and comparatively the part III of the Constitution adequately takes care of the privileges of an individual and Article 21 protects the life and personal liberty of an individual.” Article 21 of the Constitution has been deciphering the Article in a manner to cover all parts of Human beings and his rights and to defend all methods for business not simply by in a real sense deciphering the Article yet in addition utilizing Purposive strategy for understanding to keep intact the fundamental human personal liberties that each individual should enjoy with no kind of discrimination and furthermore not simply the citizens of the country.

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