

ANALYSIS OF THE TERM 'LIFE' UNDER ARTICLE 21

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INTRODUCTION

What is life? What makes a life? What makes it worth living? These are some of the questions which have given sleepless nights to some of the greatest minds that the world has ever known. Is life about equal rights for all? Is it about survival of the fittest or is it about caring for the fellow human being? Is it about seven stages as written by **Shakespeare** or about the four stages as prescribed by **Hinduism** or something else? The answer to these questions is perhaps the most sought after and philosophers have, over the years, tried to answer them, fractionally though. According to **Aristotle** the purpose of life is the Pursuit of **happiness** (“**Eudaimonia**”) and we are most happy when all our actions are directed towards achieving this purpose and while doing so we try to achieve what he called “**Arête**” i.e. **excellence**¹ **Plato** in his masterpiece work “**The Republic**” tried to bring out a different perspective to the elusive question of a Good life. According to him, the state of “**Utopia**” i.e. a state where everyone has a good life can never be achieved because of innate desire in men of greed and luxury and therefore, to achieve good life for all, every individual and society must practice reasonable restraint and civic duty³

⁴ **Friedrich Nietzsche**, a 19th century German philosopher, was very critical of Plato’s views on good life. According to Nietzsche, Plato’s description of reasonable restraint and civic duty for achieving good life is misleading and life denying. For Nietzsche, values associated with human life flourishing must be life affirming.⁵ Despite the difference of opinion on the subject of Life, there is one thing which most thinkers, almost unanimously, seem to agree is that every human being has certain rights which are necessary to make his life something more than mere existence. We all consider life to be our greatest asset. But when deprived of these certain rights, it can become a burden for some people. **Jews, in Nazi Germany** during the time of **Hitler** are perhaps the most appropriate example of such a scenario. Concepts like

¹ <https://askaphilosopher.wordpress.com/2012/02/16/aristotle-on-the-meaning-of-life/>

² Will Durant’s “The story of Philosophy” ,Pages 96- 102

³ Will Durant’s “ The Story of Philosophy” page 25

⁴ <http://www.openculture.com/2015/12/plato-aristotle-nietzsche-kants-ideas-on-the-good-life.html>

⁵ <http://www.openculture.com/2015/12/plato-aristotle-nietzsche-kants-ideas-on-the-good-life.html>

Liberty, Equality and Fraternity find their root in the man's search for a meaningful existence. This search had led **Hebrews**, under the leadership of **Moses**, to rise up against the might of Pharaoh of **Egypt**. It has also led people like **Nelson Mandela, Mahatma Gandhi, and Martin Luther King Junior** to create mass movements to liberate their people from deplorable living conditions and to attain the principles of human dignity, equality, freedom etc. There is no denying the fact that India has been a buffet of philosophical thought. India, with its ancient, rich and diverse culture has produced some of the greatest thinkers that the world has ever known and it has been a source of many great religions of the world like Hinduism, Buddhism etc., which has only added to this bouquet of thoughts. **Buddhism** says that the purpose of life is to end suffering. To achieve this it prescribes **Four Noble truths** and an **Eightfold Path**. Similarly in **Hinduism**, the purpose of life is four fold i.e. to achieve "**Dharma**", "**Artha**", "**Kama**", "**Moksha**". According to these religions, by subscribing to their way of life one can achieve satisfaction and lead a good life. In recent times, many great thinkers and writers from India have tried to dig deep in the concept of life and its various forms and ingredients. **Allama Iqbal**, who was a great thinker and perhaps the greatest Urdu poet of the last century, sums up the question of meaning of life in a wonderful way. He says:

**"Apni duniya aap paida kar agar zindon main hai;
Sir -e- Adam Hai, Zameer -e Kun Fikaan Hai Zindagi",
"Zindagani ki Haqeeqat Koh - Kan Ke Dars Hooch;
Joo-E-Sheer - O-Teesha-O-Sang-e-Giraan hai Zindagi",
"Bandagi main ghatt ke reh jaati hai Ik Joo-E-Kam Aab;
Aur Azaadi main Behr-e-Be Karaan Hai zindagi",
"Aashkara Hai Yeh Apni Quwwat-E-Tashkeer se;
Gar Che Ik Mitti Ke Paikar Mein Nihaan Hai Zindagi".**

Translation:

Create thy own world if thou be amongst the living;
Life is the secret essence of Adam, the hidden truth of creation,
Life's reality is known only to 'Farhad', the mountain digger;
It is the canal of milk, the adze and the heavy stone,

It is reduced to a rivulet with little water in bondage;

In freedom, Life is a boundless ocean,

It is manifested through its conquering might; Hidden, though, it is in an image of clay⁶.

This extract from an Urdu poem “**Khizr – e –Rah**” written by Iqbal, very nicely encapsulates the idea of life, its impulses and liberty. Life without Liberty, according to Iqbal, is like a

Confined rivulet which is restricted in its movement and flow whereas if freedom or liberty is granted to it, it has the potential to become a boundless ocean. In other words, life should transcend the boundary of being just mere physical existence. To realize its true potential, it must be accompanied with dignity, self-esteem, liberty and equality.

The concepts of life have evolved over the centuries, thanks to a lot of hard work put in by hundreds of thinkers, philosophers and jurists. Life, today, is not just seen as mere physical existence but something which is much beyond that. It carries with it the nurturing and development of all such faculties which makes a life worth living. Most of the international Organizations and countries today have recognized this need and have inculcated such provisions in their constitutions which helps facilitate an individual to lead a wholesome life. For instance the **United Nations Charter in its Preamble**, among other things, also talks about **reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. It further says that it seeks to promote social progress and better standards of life in larger freedom**⁷. To promote the idea of a meaningful life, The “**Bill of Rights**” was introduced in **England in 1689**. Besides establishing a constitutional monarchy in United Kingdom, it strived to protect the rights and liberties of every individual.⁸ This English Bill of Rights became inspiration for the **American “Declaration of Independence” in 1776** which proclaimed that all men are created equal and have inalienable rights and liberties. Similar declarations were made by various other countries through their constitution safeguarding the rights and liberties of individuals for example “**Declaration of Right of Man and Citizen**” in **1793 by France** and provisions of the **Second Constitution of the Ireland made on 29th December 1937**.

⁶ Iqbal Essays and studies, published by Ghalib Academy New Delhi and edited by Asloob Ahmad Ansari

⁷ International Law and Human Rights by Dr.S.K.Kapoor, Publisher : Central Law Agency

⁸ <https://www.landofthebrave.info/bill-of-rights-1689.htm>

The constitution makers of India, while drafting the Indian Constitution, drew inspiration from the writings of various philosophers, ancient Indian texts and democratic constitutions of the world (mentioned above), specially while writing the Part 3 (Fundamental Rights) of the constitution. **Article 12 to article 35 in Part 3 of Indian Constitution** deal with Fundamental **Rights**, Though these rights are **Justiciable** in nature but are **they not absolute** and certain **reasonable restrictions** can be imposed upon them in the interest of security of the state.⁹ As the famous old maxim says “**Ubi Jus Ibi Remedium**”, which means where there is a right there has to be a remedy in case that right is violated, our constitution makers inculcated **Article 32** (which is itself a fundamental right and has been described as the “**soul**” of the constitution by **Dr. Bhimrao Ambedkar**) which is a **Right to Constitutional Remedies** in case anybody's right is infringed or violated by the state. Contribution of article 32 to the interpretation, expansion of the various articles of the constitution has been immense. It was through the use of this article, that some of the landmark judgments were passed. Though no sphere of life has been left untouched by this article but I won't be wrong in saying that the biggest beneficiary of article 32 has been article 21. Article 32 has greatly helped in interpreting and determining the scope of Right to Life and Personal Liberty as mentioned under article 21. If article 32 is referred to as the “**soul**” of the constitution, article 21 is considered by many to be the “**heart**” of the constitution.

Article 21 of our Constitution states that “No person shall be deprived of his to life and Personal liberty except according to procedure established by law”. This article confers right to live and right of liberty to each individual within India.

It basically says that everybody has a right to live and live with liberty but state can impose certain restrictions upon these rights but as per procedure laid down by law. The focus of this article is on:

- (1) Life
- (2) Liberty
- (3) Procedure established by law

This article is applicable to every person citizen or foreigner but is subject to certain reasonable restrictions put forth by Article 19. Further, the “**procedure**” contemplated in this

⁹ Shorter Constitution Of India Volume 1 by Durga Das Basu

article has to be in sync with the principle of equality mentioned under Article 14. So **Article 21, Article 19 and Article 14** are related to each other this way. Over the years, through the process of Judicial Activism and through the use of Article 32, many amendments, alterations and additions have been made to Article 21 by the Parliament and the Supreme Court. The scope of the term “Life” under this article has been considerably broadened. Here we shall discuss how the term “Life” in this article has evolved over the years and now stands expanded.

In **Maneka Gandhi case**¹⁰ it was held by honorable Supreme Court that the right to live does not mean just mere physical existence but **Right to Live with Human Dignity** which makes a life meaningful, complete and worth living. This was a landmark judgment by the court as it had changed the course of how Article 21 should be viewed. Similar views were expressed by the court in **Francis Coralie Vs Union Territory of Delhi**¹¹. In this case, according to the learned judge, “The right to life enshrined in [Article 21](#) cannot be restricted to mere animal existence. It means something much more than just physical survival. Every limb or faculty through which life is enjoyed is thus protected by [Article 21](#) and a fortiori, this would include the faculties of thinking and feeling.”

Taking a cue from the above judgments, Supreme Court in **People’s Union for Democratic Rights vs. Union of India**¹², also known as **Asiad Case**, held that nonpayment of minimum wages to workers employed in various Asiad projects amounted to violation of Article 21 as it denied to them **the right to live with basic human dignity**. It was a revolutionary decision on the part of Supreme Court as it has, since then, set a standard for the treatment and maintenance of workers employed in various projects¹³.

There have been numerous cases where Courts have upheld the same view about life with dignity. In **Chandra Raja Kumari Vs. Police Commissioner Hyderabad**¹⁴, the court held that the government is empowered to prohibit a beauty contest if it is repugnant to dignity of women but this prohibition has to be done as per procedure established by law. In **State of Maharashtra Vs. Chandrabhan**¹⁵ it was held that minimum subsistence allowance to a

¹⁰ AIR 1978 SC 597

¹¹ AIR 1981 SC 746

¹² AIR 1982 SC 1473

¹³ Constitutional Law Of India by Dr. J.N.Pandey , Publisher: Central Law agency

¹⁴ AIR 1998 AP 302

¹⁵ AIR 1983 SC 803

Government servant during his suspension or during the pendency of his appeal should be given to him as this is his Right to live with basic Human dignity.

Supreme Court in People's Union for Democratic Rights Vs Union of India also gave life breath to the **prohibition of unfair conditions of labour**. The plight of labourers was further addressed in **Bandhua Mukti Morcha Vs Union of India**¹⁶. Bonded labour system is a scourge and stench of the society and it was put in its right place through the judgement given by the Supreme Court in this case. The court held that under Article 21 it is a violation of Fundamental right of workmen to Live with human dignity if they are held in bondage and are living under inhumane conditions. Article 21 derives its strength from **clauses (e) and (f) of article 39 and article 41 and article 42**. Neither the state government nor the central government has the right to deprive a person of his right to live with human dignity which includes health and strength of workers, men and women, protection from child abuse, just and humane conditions of work etc.

The court also realized the fact that it is imperative that labourers released from bonded labour must be provided with sufficient facilities for rehabilitation so that they can stand on their feet with their head held high. In the case of **Neerja Chaudhari V State of M.P**¹⁷, Justice Bhagwati noted that it is not enough to identify and release bonded labourers but also that they should be rehabilitated because without rehabilitation they would be driven to poverty, helplessness, despair and serfdom once again. This is the plainest requirement of Article 21 that the bonded labourers must be identified and released and suitably rehabilitated¹⁸.

At the time when the Constitution was being written, poverty and unemployment was rampant in India. One of the biggest questions before them was how to make India stand on its feet by providing its people with opportunities of livelihood. Constitution makers knew that to provide sufficient and necessary means to safeguard the livelihood of people, necessary provisions have to be included in the constitution which would enable them to secure **livelihood** and necessities of life. Keeping this objective in mind, **Article 19(1)(g) and Article 41** were inculcated in the constitution. Article 19(1)(g), which is a **fundamental right**, though subject to certain reasonable restrictions, says that **“All citizens shall have the**

¹⁶ AIR 1984 SC 802

¹⁷ AIR 1984 S.C. 1099

¹⁸ Constitutional Law Of India by Dr. J.N.Pandey , Publisher: Central Law agency

right to practice any profession, or to carry on any occupation, trade or business". Article 41, which is a Directive Principle of State Policy and is mentioned in Part 4 of the Constitution states "The state shall, within the limits of its economic capacity and development, make effective provisions for securing the right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want". Taking note of the above provisions and to determine the scope of the term "Life", the Supreme Court in the case of *Olga Tellis Vs Bombay Municipal Corporation*¹⁹ said "The sweep of the right to life conferred by [Article 21](#) is wide and far reaching. It does not mean merely that life cannot be extinguished or taken away as, for example, by the imposition and execution of the death sentence, except according to procedure established by law. That is but one aspect of the right to life. An equally important facet of that right is the right to livelihood because; no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life." This was a landmark judgment in the sense that the Supreme Court recognized the fact that Right to Livelihood comes under the ambit of Right to Life.

Taking this precedence forward Supreme Court in the case of *Delhi Transport Corporation D.T.C v. Mazdoor Congress and Others*²⁰ held "The right to life includes right to livelihood, The right to livelihood therefore cannot hang on to the fancies of individuals in authority. The employment is not a bounty from them nor can its survival be at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental." It further said that in case a person is being removed from his job, the procedure followed should be as the provisions of article 14 i.e. it should be fair, just and reasonable.

¹⁹ (1985) 3 SCC 545

²⁰ AIR 1991 SC 101

Time and again various courts, including the Supreme Court, through their judgements, have reiterated the point and stated it unequivocally that right to livelihood is an integral part of right to live and have tried to cover many sectors of the economy, both formal and informal, be it agriculture where Supreme Court in **Dalmia Cements (Bharat) Ltd Vs Union Of India**²¹ declared right of agriculturists to cultivation is a part of their fundamental right to livelihood or in case of mariners where in **O Konavalov Vs Commander, Coast Guard Region**²² the court said that right of wages to seamen is an integral part of their right to livelihood as guaranteed by article 21²³.

In the case **Ramsharan Autyanuprasi Vs. Union of India**²⁴ it was held by the honorable court that “It is true that life in its expanded horizons today includes all that give meaning to a man's life including his **tradition, culture and heritage and protection of that heritage in its full measure would certainly come within the encompass of an expanded concept of [Article 21](#) of the Constitution.** “It implies from this judgment that the scope of the term Life in Right to Live had been further enhanced to now include everything that gives meaning to a man's life to which he can relate and draws identity from like his tradition, culture, heritage and protection of that heritage²⁵. The courts in India, recognizing the importance of a person's reputation to himself, have, through their various judgments on Article 21,

Recognized **Right of Reputation** as a part of Right to live, Reputation of a person is something which he cherishes, nurtures and protects throughout his life. So many battles and wars were fought throughout the annals of human history just to protect or restore the reputation of someone or to avenge the loss of reputation of a person. It was the attack on **James Shield's** reputation, through anonymous letters which he believed were written by **Abraham Lincoln**, which had prompted him to challenge Lincoln for a duel in 1842²⁶. People die, their bodies perish over a period of time, but what remains even long after when they are gone is their reputation. “**Cassio**” in Shakespeare's play “**Othello**” very rightly says “**Reputation, reputation, reputation! O, I have lost my reputation! I have lost the immortal part of myself, and what remains is bestial. My reputation, Image, my reputation!**” “History is abound with examples where loss of a man's reputation drives him to

²¹ 1996,10 SCC 104

²² 2006, 4 SCC 620,633

²³ Shorter Constitution Of India Volume 1 by Durga Das Basu

²⁴ AIR 1989 SC 549

²⁵ Shorter Constitution Of India Volume 1 by Durga Das Basu page 369

²⁶ <http://www.lib.niu.edu/1995/ihy950248.html>

do extraordinary things and courts in India and world over, are cognizant of this reality which is why they have inculcated several provisions in their laws to protect the reputation of a person. In India, **Section (499) and Section (500) (i.e. Laws related to Defamation)** of the **Indian Penal Code 1860** and **Article 21** of the Indian Constitution deal with the protection of a person's reputation. The courts in India have contributed greatly towards the recognition of Right to Reputation as a Fundamental Right as mentioned under Right to Life under article 21. In the case

State Of Bihar Vs Lal Krishna Advani & Ors²⁷, the honorable court opined that "The right to enjoyment of a private reputation, unassailed by malicious slander is of ancient origin, and is necessary to human society. A good reputation is an element of personal security and is protected by the Constitution equally with the right to the enjoyment of life, liberty and property." This view of the court was echoed in the case of **Kiran Bedi & Ors vs Committee Of Inquiry & Anr**²⁸ here the honorable court stated ".....a man's reputation is a part of himself, as his body and limbs are, and reputation is a sort of right to enjoy the good opinion of others, and it is capable of growth and real existence, as an arm or leg. Reputation is, therefore, a personal right, and the right to reputation is put among those absolute personal rights equal in dignity and importance to security from violence....." Another important addition to the term Life under Right of Life and Personal Liberty was the

Right of Privacy, Black's Law Dictionary defines privacy as "right to be let alone; the right of a person to be free from unwarranted publicity; and the right to live without unwarranted interference by the public in matters with which the public is not necessarily concerned". In today's day and age, with the advent of technology, the protection of privacy is all the more important. The old proverbial saying that "Even the walls have ears" seems to be becoming a reality. **George Orwell** in his masterpiece novel **Nineteen Eighty Four** delved into the subject of continued surveillance and intrusion into a person's privacy. The cases of intrusion of one's privacy, by governments, agencies, media or individuals, are increasing by the day. It was and it is of utmost importance to safeguard one's privacy. Most of the major constitutions of the world and world organization, having taken note of the gravity of this situation, have provided for sufficient provisions in their systems to safeguard against intrusion of privacy. **Article 12 of Universal Declaration of**

²⁷ (2003) 8 SCC 361

²⁸ (1989) 1 SCC 494

Human Rights (1948) says "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence or to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks. "Though the constitution of India does not have any separate provision for the protection of privacy but the courts have over the years reiterated that right of privacy come within the purview of right of life under article 21 i.e. right of privacy is not beyond the scope of right to life and personal liberty. The first time ever that the question of privacy came before a court was in the case of **Kharak Singh Vs State of Uttar Pradesh**²⁹ where though majority of the judges did not concede to the view that privacy is a fundamental right but two judges of that bench were of the opinion that privacy is very much a part of article 21 and is a fundamental right. However this scenario changed over the course of time when the courts in subsequent cases affirmed the point that Privacy is a part of life under article 21. The learned judges, in the case of the Supreme

Court while deciding the case of **Govind v. State of Madhya Pradesh**³⁰ stated ".....'life' in the 5th and 14th Amendments of the U.S. Constitution corresponding to [Art. 21](#) mean not merely the right to the continuance of a person's animal existence, but a right to the possession of each of his organs-his arms and legs etc. We do not entertain any doubt that the word 'life' in Article 21 bear, the same signification". The first time when Right to privacy was directly linked to article 21 of the Constitution was in the case of **R. Rajagopal Vs. State Of Tamil Nadu**³¹ (known as **Auto Shankar case**) where the learned judges while describing the scope of right of privacy said ".....The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a "right to be let alone". A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters. None can publish anything concerning the above matters without his consent whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages. "The courts in this case, besides making right to privacy a fundamental right, also had, for the first time, stated that anybody infringing the right to privacy of someone would be liable to pay damages. Extrapolating the above judgments, the courts have included **Phone tapping and**

²⁹ AIR 1963 SC 1295

³⁰ AIR 1975 SC 1378

³¹ AIR 1995 SC 264

Surveillance by authorities in the ambit of Right to Privacy. Supreme Court in the case of **People’s Union for Civil Liberties vs. Union of India (also known as Phone Tapping case)** ³² held that “telephone tapping is a serious invasion of an individual’s privacy”. “.....but at the same time citizen's right to privacy has to be protected from being abused by the authorities of the day.” The court further held that tapping can be allowed only in the case of public emergency or in the interest of public safety and quoted several exceptions mentioned under article 19(2) under which tapping can be allowed. Similarly in the case of **Malak Singh Vs State of Punjab** ³³, the court held that surveillance of certain shady persons can be allowed but that too up to a certain degree and for the purpose of prevention of crime whereas surveillance of people who have a clean record would be categorized as being violative of right to privacy.

Another major area where the contribution of the courts have been enormous is the acceptance of certain needs associated with life as being a part of the expanded scope of the term “life” under Article 21. Needs, unlike wants, are things which constitute the necessities of life. Wants on the other hand can be associated with luxuries of life. To lead a normal human life, there are certain needs, fulfillment of which are imperative for the existence of a man like need for shelter, need to sleep, need for food, women’s need for protection etc. **Martin Luther King Junior**, in his immortal speech “**I have a Dream**” spoke about the need of Black Americans to be treated at par with white Americans as guaranteed by America’s Declaration Of Independence which stated that every citizen of America would be guaranteed the “**Unalienable Rights**” of “**Life, Liberty and the Pursuit of Happiness.**” It was the denial of such basic human needs which had driven French people to rebel and thereby causing the **French Revolution in 1789**. Time and again history has shown that the denial of these basic needs have led masses to do the unthinkable. Be it the indifferent attitude of the Britishers towards Indians during their “**Raj**” here (especially during the Bengal famine of 1940s when Churchill, the then prime minister of Britain, instead of being sympathetic toward the Indians, blamed Indians for the famine for “breeding like rabbits”) or the attitude of the French monarchy just before the French revolution. It is widely believed that it was **Mary Antoinette’s (Last Queen of France)** mocking comment “**Let them eat cake**”, when she was informed about the plight of her starving subjects, which acted as a catalyst to start the revolution. It goes without saying that the fulfillment of these needs

³² (1997) 1 SCC 301

³³ AIR 1981 SC 760

provide for the sustenance and development of human kind and every nation, big or small, must strive towards fulfilling them, as far as possible. Although there are no separate provisions in the constitution of India regarding them, but realizing the fact that the fulfillment of all such needs which are necessary for a man to live his life in a humane way, which is more than mere animal existence, the courts have, over the years, included such needs within the scope of right to “life” under article 21. For example, during the time when the anti-corruption movement, initiated by Anna Hazare, was at its peak, a very important decision was given by the honorable Supreme court in the case of **Ramlila Maidan Vs. Home Secretary, Union of India** ³⁴ where it was held by the court that since sleep is not a luxury but a necessity and is important for the health and happiness of an individual therefore Right to sleep is a fundamental right of every citizen and comes under the purview of Right to Life mentioned under article 21. Similar views were also expressed by the court in the **Kharak Singh Vs. the State of U. P. & Others** where the court stated had expressed that right to sleep is a fundamental right and sleep is necessary for everyone including animals.

The health of a nation depends upon the health of its citizens. How well an economy of a country is performing is directly related to the health and wellbeing of the subjects of that economy. Healthy body and healthy mind are interrelated. All developed and great nations of the world (like USA, UK, France, Germany etc.) have people who are healthy whereas countries which are doing not so well have majority of their people living in poor health conditions and suffer from malnourishment, starvation etc. (some African countries). Since the time of ancient Greeks, a lot of emphasis was laid on the health of the individuals. All great philosophers like Aristotle, Plato, Socrates and others have spoken about the importance of the health of the people. It is the duty of the state to provide for suitable healthcare facilities for its subjects and especially for the poor. According to Martin Luther King Jr. ““Of all the forms of inequality, injustice in health care is the most shocking and inhumane.”, The courts in India are aware of this reality and have included **Right to health, Right to Social Security and Protection of Family and Right to Medical care** etc. Under the umbrella of right to

life under article 21, As the old adage says “**Sariramadyam Khalu Dharma Sadhanam**” ³⁵; i.e. the hallmark of a good state is that it provides for the wellbeing of the health of its

³⁴ 2012 Cr LJ 3516
³⁵

<https://books.google.co.in/books?id=UMwUONSXKocC&pg=PA230&lpg=PA230&dq=%E2%80%9CSariramadyam+Khalu+Dharma+Sadhanam%E2%80%9D&source=bl&ots=ArD4osGIPm&sig=B->

citizens. The Constitution of India has provided for some provisions regarding the health of the citizens but they are mentioned in **Part 4 under Directive Principles of State Policy**. They are not justiciable and cannot be enforced by the courts. They are just moral obligations, a duty, on the part of the state to achieve. For instance, according to **Article 39(e)** the state should direct its policy for securing the health of workers, protection against child abuse, according to **Article 41** state should secure public assistance in sickness and disablement among other things, **Article 42** says state shall make provisions for securing just and humane conditions of work and maternity relief, **Article 47** says that it shall be the duty of the state to raise the level of nutrition and the standard of living and to improve public health of the people. Though these provisions are non-justiciable but the court has recognized them as a part of fundamental right to Life as per article 21, In the case of **Consumer Education & Research ... vs. Union Of India & Others**³⁶, it was held by the honorable court that since health is essential for meaningful existence it should be the duty of the employer and the state to provide for the treatment of the worker, while in service or even after his retirement and it must be held that Right to health and medical care is a fundamental right and comes within the scope Right to Life guaranteed to everyone under article 21. Again in the case of **Paschim Banga Khet Mazdoor samity ... vs State Of West Bengal & Anr**³⁷ on 6 May, 1996, the judgement of Supreme Court was reaffirmed. The court in this case held that it is an obligation on the state to safeguard the Right to Life of every citizen and to provide adequate medical facilities. The court further instructed all the Government Hospitals that they are duty bound to extend medical assistance for preserving human life and the failure on the part of the government hospitals to do so amounts to violation of a person's right to life under article 21.

The courts in India have been very sensitive to the environment and the adverse impact of human activities on it. They have been instrumental in the preservation and restoration of the environment and ecological imbalance. **Article 48 (A) (Part 4, Directive Principle Of State Policy)** of the Indian constitution says that "The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country", and **Article 51(A)(g) (Part 4, Fundamental Duties)** says that " it shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild

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³⁶ (1995) 3 SCC 42

³⁷ 1996(4). SCC 37

life, and to have compassion for all living creatures”. Though both these articles are like guiding lights and emphasize on the duty of the state and the duty of every citizen towards the conservation of the environment but neither of them are enforceable or justiciable. It was the Supreme Court, which through its judgements have made **Right To Get Pollution Free Air, Right to Clean Environment and Right against Noise Pollution** a fundamental right guaranteed to every citizen under the Right to Life under article 21 and have greatly helped in the conservation of environment. In the case of **Vellore Citizens Welfare Forums vs Union Of India on 9 September, 2014**, it was stated by the honorable court that the court has jurisdiction to protect the right of safe drinking water, right to an environment that is not harmful to one to prevent environment pollution and ecological degradation etc. In this case the court declared the onus would be on the polluters to restore the environment and make good the loss caused to people because of his activities i.e. “Polluter’s Pay Principle”. Similarly, in the case **M.C. Mehta vs. Kamal Nath³⁸ & Ors**, it was held by the court that though all natural resources are meant for the enjoyment and use of the public but the state is a trustee of all natural resources including sea shores, running waters, air, forest and ecologically fragile lands and the state is under a legal duty to protect the natural resources i.e. “Public Trust Principle” It would be in the fit of things to say that Mr. M.C.Mehta through his untiring efforts for the conservation of the environment has been a flag bearer of many environmental issues and has through the use of Article 32 managed to bring about some very important changes which has helped in the conservation of environment be it the Oleum Gas leak case or Delhi Transport case or Taj Mahal Protection case or Kanpur Tannery case. He has been, very rightly, awarded the Ramon Magsaysay Award for Asia for Public Service in 1997. The Government of India awarded him the civilian honour of the [PadmaShri](#) in 2016. In the case of **Church of God (full Gospel) in India Vs. K.K.R Majestic Colony Welfare Association and others³⁹**, the court recognizing the view that noise pollution is a nuisance and may lead to serious health problems held that nobody can claim a right to breach the permissible limits of noise prescribed by Environment [\(Protection\) Act](#), 1986 because other people too have a right not to get their peace disturbed by noise. In recent years, the biggest addition to the term “Life” under article 21, in my opinion, has been **Right To Education**. As we know, education is a tool which is essential for the development of mental faculties of a person by imparting knowledge and education and through which a person can better himself and his situation. It teaches us ways of life, its

³⁸ (1997) 1 SCC 388

³⁹ (2000) 7 SCC 282

do's and don'ts. It teaches us humility, civility and how to live in a society or a community. It is the foundation stone on which the structure of a man's life stands. At this point I am reminded of an extract from a beautiful essay "Of Studies" written by **Francis Bacon**. He writes "Studies serve for delight, for ornament, and for ability. Their chief use for delight is in privateness and retiring; for ornament, is in discourse; and for ability, is in the judgment, and disposition of business. For expert men can execute, and perhaps judge of particulars, one by one; but the general counsels, and the plots and marshaling of affairs, come best, from those that are learned". It is mentioned in the books of Islam that the first word which was revealed by **God to Prophet Mohammad through Angel Gabriel** was "IQRA" which mean "READ". Such is the importance of education. It is through education only that the human kind has come out of stone age and has landed on the moon. **Gottfried Wilhelm Leibnitz** once said, "Make me the master of education, and I will undertake to change the world."⁴⁰ According to Aristotle,

All who have meditated on the art of governing mankind have been convinced that the fate of empires depends on the education of youth"⁴¹. Stressing about the importance of education and a clear thinking mind, Nobel laureate

Rabindranath Tagore in his great poem "Where The Mind is Without Fear" says "Where the mind is without fear and the head is held high Where knowledge is free Where the world has not been broken up into fragments By narrow domestic walls Where words come out from the depth of truth Where wisdom striving stretches its arms towards perfection Where the clear stream of reason has not lost its way Into the dreary desert sand of dead habit Where the mind is led forward by thee Into ever-widening thought and action Into that heaven of freedom, my Father, let my country awake".

Recognizing the importance of education, the constitution makers of India had inserted certain articles in Part 4 (Directive Principle of State Policy) in the constitution of India. Article 41 talks about Right to work, to education and to public assistance in certain cases and Article 45 (Amended by 86th Amendment Act 2002) is about provision for early childhood care and education to children below the age of six years. Though initially Right to Education was a part of Directive Principles but in subsequent years, at the behest of recommendation of **Acharya Ramamurti Committee of 1990** and because of various

⁴⁰ <http://www.123helpme.com/the-importance-of-education--view.asp?id=242359>

⁴¹ https://en.wikipedia.org/wiki/Philosophy_of_education

judgements of the courts, it has been made a part of Right to Live under article 21. In the case of **Mohini Jain v. Union of India**⁴² the Supreme court stated that Right to education flows directly from right to life and the dignity of an individual cannot be assured unless it is accompanied by right to education. Then again in the case of **J P Unnikrishnan vs. State of Andhra Pradesh**⁴³, the supreme court recognizing the importance of article 41, 45 and 46 of the constitution, remarked that every child has a right to free and compulsory education till the age of fourteen years. Both these judgements were instrumental in the pronouncement of Right to Free and Compulsory Education to all children between 6 – 14 years as a Fundamental right under article 21 by inserting Article 21 A through. **Eighty Sixth Constitutional Amendment Act of 2002** and **Right To Free and Compulsory Education Act** was finally passed in 2009. The Right to Life granted under article 21 is available to everyone within the territory of India, including foreigners and prisoners. The courts in India were not oblivious to the fact that it is imperative to protect even the under trials and prisoners from the excesses of the state. India is a country which is proud of the highest standard of just, fair and reasonable judicial system. It is a country which has given even terrorists like **Ajmal Kasab and Afzal Guru** a fair chance to be heard by allowing them access to all the judicial facilities like a fair trial and free legal aid. Certain rights are considered by the courts as being unalienable and are made a part of Right to Life under article 21. To prevent under trials from **Police Atrocities** like custodial torture, rape or death, the court in the case **D.K. Basu Vs State Of West Bengal**⁴⁴ have made third degree treatment of convicts/ prisoners totally impermissible. In the case of **Khatri (2) V State of Bihar**⁴⁵, it was held by the honorable court that the state is constitutionally bound to provide **Free Legal aid** to all the convicts. Similarly in the case of **Francis Coralie Mullin Vs Administrator, Union of Delhi**⁴⁶, it was held by the court that every convict has a **Right of a Detenu**e to consult a legal adviser of his choice.

CONCLUSION

India has come a long way since the time when Jawaharlal Nehru spoke about “**Tryst with Destiny**” on the eve of Indian independence in **1947**. In a very short time it has become one of the fastest growing nations of the world and has taken giant strides in all the spheres of life.

⁴² (1992) 3 SCC 666

⁴³ 1993 SCC (1) 645

⁴⁴ (1997) 1 SCC 416

⁴⁵ (1981) 1 SCC 627; (1986) 2 SCC 401

⁴⁶ (1981) 1 SCC 608

But according to me, the biggest achievement of India in all these years has been the preservation and development of democratic values. India with all its cultural diversity and multi ethnicity has managed to uphold the principles of democracy. A lot of credit for this goes to the judiciary of the country which has not just been protector of the constitution but has been very active in the interpretation of the constitution. It was through the deliberations of the court that the scope and reach of provisions like **“Right To Life”** under article 21 was increased and now stands so much expanded that it almost includes all the qualities which makes a life worth living. It is the presence of these rights that differentiates **“Living”** from mere **“Existence”**.

