

Chapter – 7

Scope of the Right to Life and Personal Liberty under Article 21

7.1 Article 21- Protection of Life and Personal Liberty

- This right has been held to be the heart of the Constitution, the most organic and progressive provision in our living constitution, the foundation of our laws.
- Article 21 of the constitution gives the Right to life, personal liberty, and Right to die with dignity.
- A person's personal liberty should not be deprived except as per law and after following, the procedure laid down by law.
- Term 'personal liberty' does not limit to the only body or prison It includes :
 - Right to sleep
 - Right to travel foreign
 - Right to bail and legal help
 - Right against the use of the third-degree method by police.
- Article 21 can only be claimed when a person is deprived of his 'life' or personal liberty by the State as defined in Article 12 Violation of the right by private individuals is not within the preview of Article 21
- Article 21 secures two rights:
 - Right to life, and
 - Right to personal liberty
- The Article prohibits the deprivation of the above rights except according to a procedure established by law.
- Article 21 applies to natural persons. The right is available to every person, citizen or alien.
- Thus, even a foreigner can claim this right. It, however, does not entitle a foreigner the right to reside and settle in India.

7.2 Meaning and Concept of The Right to Life

- Everyone has the right to life, liberty and the security of person.,
- The right to life is undoubtedly the most fundamental of all rights.
- 'Life' as mentioned under Article 21 signifies not merely living or the physical act of breathing. It has a much more profound meaning that signifies the :
 - Right to live with human dignity;
 - Right to livelihood;
 - Right to health;
 - Right to pollution-free air; and
 - Right to live a quality life.
 - Right to go abroad;
 - Right to privacy;
 - Right against solitary confinement;
 - Right against delayed execution;
 - Right to shelter;

- Right against custodial death;
- Right against public hanging; and anything and everything that fulfils the criteria for a dignified life.
- All other rights add quality to the life in question and depend on the pre-existence of life itself for their operation.
- As human rights can only attach to living beings, one might expect the right to life itself to be in some sense primary since none of the other rights would have any value or utility without it.
- There would have been no Fundamental Rights worth mentioning if Article 21 had been interpreted in its original sense.
- Article 21 of the constitution of India, 1950 provides that. 'No person shall be deprived of his life or personal liberty except according to procedure established by law.' 'Life, in Article 21 of the constitution is not merely the physical act of breathing. It does not indicate mere animal existence or continued drudgery through life.
- It has a much wider meaning which includes the right to live with human dignity, right to livelihood, right to health, right to pollution-free air, etc.
- The right to life is fundamental to our very existence without which we cannot live as a human being and includes all those aspects of life, which go to make a man's life meaningful, complete, and worth living. under Article 21, so many rights have found shelter, growth, and nourishment. Thus, the bare necessities minimum and basic requirements that are essential and unavoidable for a person is the core concept of the right to life.
- In Sunil Batra v. Delhi Administration, the Supreme Court reiterated with the approval of the above observations and held that the right to life, including the right to lead a healthy life so as to enjoy all faculties of the human body in their prime conditions.
- It would even include the right to protection of a person's tradition. culture, heritage and all that gives meaning to a man's life. It includes the right to live in peace, to sleep in peace and the right to repose and health.

7.3 References

M Laxminath "Indian Polity" 4th Edition 2013 Tata McGraw Hill Publication. Durga Das Basu" Introduction to Constitution of India"

Tejpal Sheth" Indian Constitution" 1 st Edition 2018 Mahajan Publication.