



## **Right To Personal Liberty Under the Indian Constitution: New Horizons**

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### **ABSTRACT**

Article 21 of the Constitution of India has travelled further than almost any other fundamental-rights provision. What began as a narrowly administered guarantee against deprivation of physical freedom except by enacted procedure has become a constitutional charter of fair process, dignity, privacy, bodily integrity, decisional autonomy and institutional protection. This paper traces that transformation chronologically, from *A.K. Gopalan v. State of Madras* through *Maneka Gandhi v. Union of India* and the post-*Puttaswamy* autonomy cases, while retaining a critical distinction between the “right to life” and “personal liberty” limbs of Article 21. Particular attention is devoted to *SaveLIFE Foundation v. Union of India*. The 2016 judgment converted Good Samaritan protections into binding law, while the reportable order of 26 May 2026 recognised trauma care as integral to Article 21 and prescribed a coordinated emergency-care architecture. These decisions illustrate the movement from negative liberty to positive constitutional obligation. The paper argues that the next phase of personal-liberty adjudication will concern technology-enabled surveillance, algorithmic State action, informational self-determination, arrest safeguards and proportionate bail conditions. It concludes that expansion will remain legitimate only if courts organise Article 21 through legality, non-arbitrariness, necessity, proportionality, procedural safeguards and effective remedies.

### **I. INTRODUCTION**

The constitutional guarantee that “no person shall be deprived of his life or personal liberty except according to procedure established by law” is textually spare but doctrinally immense.<sup>1</sup> Unlike several freedoms under Article 19, Article 21 protects every “person”, including non-citizens. Its placement and language make liberty a restraint on public power; its judicial history has converted that restraint into a broader constitutional ethic governing arrest, detention, punishment, bodily choice, intimate association, information and access to life-preserving institutions. International human-rights instruments similarly treat life, liberty, security, privacy and freedom from arbitrary detention as mutually supporting guarantees.<sup>2</sup>

The history of Article 21 is not a simple narrative of uninterrupted progress. It contains an early formalism in *A.K. Gopalan v. State of Madras*, a grave institutional failure in *ADM Jabalpur v. Shivkant Shukla*, the reconstruction of due process in *Maneka Gandhi v. Union of India*, and a later movement towards dignity and autonomy. That movement has generated both constitutional achievement and methodological anxiety. If every serious human interest is placed within Article 21 without a disciplined test, the provision risks becoming rhetorically unlimited; if interpreted narrowly, it cannot answer modern forms of domination that operate without prison walls.<sup>3</sup>

This paper therefore asks: how has the Supreme Court transformed “personal liberty”, and what principles should govern its new horizons? It advances three propositions. First, *Maneka Gandhi* replaced legislative formalism with an integrated standard of legality, fairness and non-arbitrariness under Articles 14, 19 and 21. Secondly, privacy and autonomy decisions now protect a person’s authority over identity, body, relationships

and information, rather than merely locomotion. Thirdly, SaveLIFE Foundation demonstrates that Article 21 can impose positive duties where institutional failure foreseeably

destroys life, bodily integrity and meaningful agency. The study is doctrinal and analytical, relying primarily on constitutional text, Constituent Assembly materials and Supreme Court decisions, supported by legal scholarship and international standards.

## II. CONSTITUTIONAL TEXT, FOUNDING CHOICE AND THE EARLY CONCEPTION

The framers consciously preferred “procedure established by law” to the American expression “due process of law”. The Constituent Assembly debate revealed competing fears: unreviewable legislative power on one side, and excessive judicial control over social legislation on the other.<sup>4</sup> The adopted formulation did not, however, settle whether “law” meant any formally valid enactment or a procedure compatible with constitutional reason. That question became the axis of Article 21 jurisprudence. In *A.K. Gopalan v. State of Madras*, the Court treated fundamental rights as substantially separate compartments and understood personal liberty principally as freedom from physical restraint.<sup>5</sup> A deprivation supported by a validly enacted preventive-detention law generally satisfied Article 21; the fairness of the procedure was not independently tested under Articles 14 or 19. The decision reflected a formal conception of legality: the Constitution asked whether there was a law, not whether its procedure was substantively just. Scholarly criticism has long identified this atomistic approach as incompatible with the integrated moral structure of fundamental rights.<sup>6</sup> The retreat from *Gopalan* occurred in stages. In *Kharak Singh v. State of Uttar Pradesh*, the majority invalidated nocturnal domiciliary visits as an invasion of ordered liberty, although it declined to recognise a general constitutional right to privacy.<sup>7</sup> Justice Subba Rao’s dissent more clearly understood surveillance as an assault on the freedom to live without the State’s persistent shadow. *Satwant Singh Sawhney v. D. Ramarathnam* then held that the right to travel abroad formed part of personal liberty and could not be curtailed without law.<sup>8</sup> In *R.C. Cooper v. Union of*

India, the Court rejected the idea that the constitutionality of State action depended solely on its object or the formal compartment in which it was placed; the effect of the measure on protected rights became decisive.

<sup>9</sup> These decisions supplied the doctrinal materials with which *Maneka Gandhi* would dismantle *Gopalan*.

The Emergency judgment in *ADM Jabalpur v. Shivkant Shukla* nevertheless exposed the fragility of liberty when judicial review yields to executive necessity.<sup>10</sup> The majority denied an effective habeas corpus remedy during the suspension of enforcement of Article 21, even against allegedly unlawful detention. Justice H.R. Khanna’s dissent insisted that life and liberty were not gifts of the State. The majority reasoning was later repudiated in *Justice K.S. Puttaswamy (Retd.) v. Union of India*, but its enduring lesson is institutional: constitutional liberty depends not only on generous doctrine in ordinary times, but on judicial fidelity when power claims emergency.

## III. MANEKA GANDHI AND THE RECONSTRUCTION OF DUE PROCESS

*Maneka Gandhi v. Union of India* is the central doctrinal turning point. The petitioner’s passport was impounded in the “public interest” without an antecedent hearing or meaningful disclosure of reasons. The Court held that a procedure depriving life or personal liberty must be “right, just and fair”, not arbitrary, fanciful or oppressive.<sup>11</sup> Article 21 was no longer satisfied by the mere existence of an enacted procedure. The procedure, the law authorising it and its administration became reviewable through the mutually reinforcing guarantees of Articles 14, 19 and 21.

The significance of *Maneka Gandhi* lies in three moves. First, it constitutionalised procedural fairness. Natural justice could be adapted to context, but could not be excluded by administrative convenience alone. Secondly, it linked personal liberty with the anti-arbitrariness principle under Article 14. Thirdly, it rejected

the isolation of fundamental rights: a law affecting liberty might simultaneously have to satisfy a specified freedom under Article 19. The resulting

“golden triangle” imported much of due process into the Indian text without replacing its language.<sup>12</sup> The post-Maneka Court consequently treated confinement as a constitutional relationship rather than a rights-free zone. *Sunil Batra v. Delhi Administration* subjected prison discipline and solitary confinement to Article 21, affirming that conviction does not extinguish human dignity.<sup>13</sup> In the *Hussainara Khatoon* series, the Court recognised speedy trial and legal assistance as indispensable to fair procedure, drawing attention to undertrial prisoners detained longer than the maximum possible sentence.<sup>14</sup> *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* connected life and liberty with the minimum conditions of human dignity, including reasonable access to family and counsel.<sup>15</sup> *Olga Tellis v. Bombay Municipal Corporation* extended this reasoning to livelihood, because deprivation of the means of subsistence could make life itself impossible.<sup>16</sup> This expansion did not convert every social claim into an absolute entitlement. Its deeper contribution was to reframe constitutional injury. State action can deprive liberty not only by locking a cell, but by subjecting persons to degrading conditions, interminable process or procedures that make defence illusory. That insight also supported public-law compensation. In *Nilabati Behera v. State of Orissa*, monetary relief was recognised as a constitutional remedy for custodial death, distinct from private-law damages.<sup>17</sup> Rights without practical remedies, the Court understood, are vulnerable to becoming declarations without consequence.

#### IV. PERSONAL LIBERTY AGAINST THE COERCIVE STATE

The most concrete test of Article 21 remains the criminal process. *Joginder Kumar v. State of Uttar Pradesh* distinguished the existence of a power to arrest from the justification for exercising it.<sup>18</sup> *D.K. Basu v. State of West Bengal* prescribed arrest and custody safeguards to reduce disappearance, torture and unaccountable police power.<sup>19</sup> These rulings treated information, documentation, access to relatives

and medical examination not as technicalities but as constitutional barriers against secret coercion.

Bail jurisprudence similarly locates the presumption of innocence within liberty. *State of Rajasthan v. Balchand* supplied the enduring formulation that bail, rather than jail, is the ordinary rule; *Gudikanti Narasimhulu v. Public Prosecutor* connected bail discretion with the constitutional value of personal freedom.<sup>20</sup> In *Union of India v. K.A. Najeeb*, the Court held that statutory restrictions under special legislation do not disable constitutional courts from granting bail when prolonged incarceration and an unrealistic prospect of trial offend Article 21.<sup>21</sup> *Arnab Manoranjan Goswami v. State of Maharashtra* cautioned courts against abdication where criminal law is used to produce needless incarceration.<sup>22</sup> *Satender Kumar Antil v. Central Bureau of Investigation* addressed routine arrests, delayed trials and inconsistent bail practice through systemic directions.<sup>23</sup>

A more recent line has restored substance to the right to be informed of the grounds of arrest under Article 22(1). In *Pankaj Bansal v. Union of India*, the Court required written communication of grounds under the Prevention of Money-Laundering Act.<sup>24</sup> *Prabir Purkayastha v. State (NCT of Delhi)* applied the requirement to the Unlawful Activities (Prevention) Act and invalidated an arrest and remand founded on inadequate communication.<sup>25</sup> *Vihaan Kumar v. State of Haryana* clarified that meaningful communication is mandatory even in ordinary criminal cases; constitutional protection does not vary with the label of the offence.<sup>26</sup> The cases illustrate procedural constitutionalism at its best: liberty is protected by rules that operate before the merits of guilt can be adjudicated.

The contemporary position is nevertheless marked by tension. In special-statute cases, the Court continues to balance prolonged custody, prima facie material, trial progress and security concerns. *Gulfisha Fatima v. State (Government of NCT of Delhi)* treated Article 21 as a continuing constitutional check but rejected a purely arithmetical rule under which duration alone

automatically defeats a statutory bail threshold.<sup>27</sup> The sound principle is individualised proportionality: gravity cannot become a substitute for proof, while delay must be evaluated with role, risk, responsibility for adjournment and the realistic trajectory of trial.

## V. PRIVACY, IDENTITY AND DECISIONAL AUTONOMY

The modern concept of personal liberty is not exhausted by freedom of movement. *R. Rajagopal v. State of Tamil Nadu* recognised a protected private sphere against unauthorised publication of intimate life, subject to legitimate limitations.<sup>28</sup> *People's Union for Civil Liberties v. Union of India* treated telephone interception as a serious invasion requiring lawful procedure and safeguards.<sup>29</sup> *Selvi v. State of Karnataka* prohibited involuntary narcoanalysis, polygraph examination and brain-mapping, linking mental privacy, bodily integrity and the right against compelled testimony.<sup>30</sup> The nine-judge decision in *Justice K.S. Puttaswamy (Retd.) v. Union of India* placed these strands on a firm constitutional foundation. Privacy was held intrinsic to life and personal liberty and connected to dignity, autonomy and freedom.<sup>31</sup> The opinions recognised spatial, bodily, communicational, decisional and informational interests. Privacy is therefore not a claim to social isolation; it is the protected space within which personality is formed, relationships are chosen and information about the self is controlled. The judgment also rejected *ADM Jabalpur* and acknowledged the prophetic force of Justice Subba Rao's dissent in *Kharak Singh*.<sup>32</sup> Its account resonates with classical privacy scholarship, but adapts privacy to a constitutional order in which both State databases and concentrated private power can structure human choice.<sup>33</sup> Autonomy jurisprudence has since made the individual, rather than family, community or majoritarian morality, the primary bearer of constitutional choice. *National Legal Services Authority v. Union of India* protected gender identity

as an aspect of dignity and self-determination.<sup>34</sup> *Suchita Srivastava v. Chandigarh Administration* located reproductive choice within personal liberty, privacy and bodily integrity.<sup>35</sup> *Shafin Jahan v. Asokan K.M.* rejected judicial paternalism towards an adult woman's choice of partner, while *Shakti Vahini v. Union of India* required protection against honour-based violence and collective interference.<sup>36</sup>

In *Navtej Singh Johar v. Union of India*, the Court invalidated the criminalisation of consensual same-sex intimacy, grounding the result in dignity, privacy, identity and constitutional morality.<sup>37</sup> *Joseph Shine v. Union of India* rejected the adultery offence's proprietary and paternalistic assumptions, recognising equal sexual and decisional agency.<sup>38</sup> *X v. Principal Secretary, Health and Family Welfare Department* interpreted abortion law consistently with reproductive autonomy and rejected marital status as a basis for denying equal decisional respect.<sup>39</sup> These decisions convert personal liberty into the authority to author one's life, especially where social power seeks to reduce adults to objects of protection or control.

End-of-life jurisprudence presents autonomy in its most difficult form. *Common Cause v. Union of India* recognised the right to die with dignity in the limited sense of refusing disproportionate life-sustaining treatment and validated advance medical directives subject to safeguards.<sup>40</sup> In *Harish Rana v. Union of India*, decided in March 2026, the Court applied and refined that framework in relation to withdrawal of clinically assisted nutrition and hydration from a patient in an irreversible vegetative state, emphasising best interests, medical consensus, family consultation and palliative care.<sup>41</sup> The case demonstrates that respect for liberty may require neither compulsory preservation at all costs nor unregulated choice, but a procedurally trustworthy account of dignity when the patient cannot presently decide.

Autonomy, however, does not automatically constitutionalise every desired legal status. In *Supriyo @ Supriya Chakraborty v. Union of India*, the Court

recognised the freedom of queer persons to form relationships but declined, by majority, to judicially rewrite the statutory institution of marriage.<sup>42</sup> Whether persuasive or not, the distinction is analytically important: a liberty to choose and associate may entail protection against coercion without necessarily entailing

a judicially created positive entitlement to every legal institution. New horizons require attention to institutional competence as well as individual right.

## VI. Savelife Foundation and the Positive Dimension of Article 21

The distinction between negative and positive liberty is sharply illustrated by emergency medical care. In *Parmanand Katara v. Union of India*, the Court held that preservation of life takes precedence over procedural hesitation and that every doctor has a professional obligation to provide immediate aid.<sup>43</sup> *Paschim Banga Khet Mazdoor Samity v. State of West Bengal* found a constitutional breach where successive public hospitals failed to provide timely treatment to a seriously injured person, and required the State to organise adequate emergency facilities.<sup>44</sup> The constitutional injury in both cases arose not from a conventional arrest but from systems that allowed avoidable loss of bodily integrity and life. *SaveLIFE Foundation v. Union of India* gave this positive dimension an innovative institutional form. Evidence before the Court showed that bystanders frequently avoided assisting road-crash victims because they feared police interrogation, repeated court attendance, expense and harassment. In 2016 the Supreme Court approved Good Samaritan guidelines and a standard operating procedure, declaring them enforceable under Articles 32 and 142, binding under Article 141, and necessary to protect Articles 21 and 14.<sup>45</sup> The judgment reduced the legal cost of rescue: a person who acts voluntarily and in good faith could not be compelled into burdensome participation merely for saving another. Parliament subsequently inserted section 134A into the Motor Vehicles Act, 1988 to provide statutory protection to Good Samaritans.<sup>46</sup>

The constitutional importance of the 2016 judgment is twofold. First, it recognises that fear generated by State procedure may itself inhibit life-saving action. Liberty is affected when the legal system converts civic assistance into exposure to coercion. Secondly, the Court did not merely prohibit harassment after the event; it fashioned rules, duties and complaint mechanisms intended to change institutional behaviour. This is a transition from non-interference to facilitation.

The litigation entered a further phase in *SaveLIFE Foundation v. Union of India*, Writ Petition (Civil) No. 726 of 2024. In a reportable order dated 26 May 2026, the Supreme Court expressly held that the right to trauma care is an integral part of the right to life under Article 21.<sup>47</sup> It directed, among other measures, integration of emergency numbers into the 112 system, State and Union Territory grievance-redressal mechanisms for Good Samaritans, medical rescue protocols, GPS-enabled and standards-compliant ambulances, training of emergency medical technicians, trauma registries, grading of trauma-care facilities, operationalisation of the cashless-treatment scheme and multilingual public-awareness campaigns.<sup>48</sup> The proceeding was retained for compliance review, underscoring that constitutional remedies may require continued supervision where implementation is distributed across governments and institutions.

Strictly analysed, the *SaveLIFE* cases are primarily authorities on the right-to-life limb of Article 21. Their relevance to personal liberty should not be overstated. Yet they belong centrally to its “new horizons” for three reasons. Bodily integrity is the material basis of agency; a person denied timely rescue can lose every future choice. Fear of coercive procedure can suppress the liberty of a Good Samaritan to act. And Article 21’s command becomes incomplete if the State may refrain from direct harm while maintaining emergency systems predictably incapable of preserving life. International human-rights doctrine likewise understands the right to life as imposing reasonable positive measures against foreseeable threats.<sup>49</sup>

Positive obligations must nevertheless be judicially manageable. Courts should identify a grave constitutional risk, a sufficiently determinate public duty, objective minimum standards, institutional responsibility and a remedy proportionate to demonstrated failure. Structural directions are most defensible when they create accountability while leaving technical design to competent authorities.<sup>50</sup> *SaveLIFE* is strongest when read in this disciplined manner, not as a licence for courts to administer every sector of social policy.

## VII. NEW HORIZONS: DIGITAL POWER, SURVEILLANCE AND PROPORTIONATE LIBERTY

The next frontier of personal liberty is technological. Contemporary control often operates through data collection, biometric identification, location histories, facial recognition, communications metadata and algorithmic classification. Such measures may never physically confine an individual, yet they can chill movement, association, speech and intimate choice. Puttaswamy supplies the constitutional starting point through informational privacy and personal control over data.<sup>51</sup> *Anuradha Bhasin v. Union of India* adds that restrictions affecting internet-based freedoms must rest on law, be reasoned, temporary, reviewable and proportionate.<sup>52</sup> The Digital Personal Data Protection Act, 2023 creates a statutory framework, but statutory compliance cannot replace constitutional scrutiny where State processing burdens liberty.<sup>53</sup> Artificial-intelligence systems intensify the problem. Predictive policing, risk scoring, automated welfare decisions and biometric matching may reproduce hidden assumptions at scale. Article 21 should require notice, intelligible reasons, an opportunity to contest consequential outputs, reliable human review and auditable safeguards. The governing concern is not technology as such, but opaque power over the conditions of personal freedom. The constitutional prohibition on arbitrary procedure

applies equally when the decisive “procedure” is encoded in a model rather than written in a file.

Recent bail jurisprudence shows how old and new forms of liberty converge. In *Frank Vitus v. Narcotics Control Bureau*, the Court rejected a bail condition requiring continuous sharing of Google location, reasoning that technological monitoring which keeps the police constantly informed of an accused’s movements violates privacy under Article 21.<sup>54</sup> On 17 August 2026, *Union of India v. Chidiebere Kingsley Nawchara* reaffirmed that foreign nationals are protected by Article 21, that bail conditions must be reasonable and proportionate, and that privacy cannot be ignored merely because the accused is not a citizen.<sup>55</sup> The cases expose a foundational principle: release on bail cannot be converted into digital confinement.

A coherent future doctrine should organise restrictions on personal liberty through six questions. Is there clear law? Does the measure pursue a constitutionally legitimate aim? Is there a rational connection between means and aim? Is a less restrictive but equally effective alternative available? Do the benefits justify the burden? Are there safeguards, reasons, review and remedies? The proportionality framework developed in *Modern Dental College and Research Centre v. State of Madhya Pradesh*, *Puttaswamy* and the *Aadhaar* judgment provides the necessary structure.<sup>56</sup> It prevents “new horizons” from becoming an invitation to unbounded judicial intuition, while ensuring that technological novelty does not become a constitutional exemption.

## VIII. CONCLUSION

The history of personal liberty under the Indian Constitution is a movement from form to justification. Gopalan asked principally whether a law existed; Maneka Gandhi asked whether law and procedure were fair, non-arbitrary and compatible with connected freedoms. The prison and undertrial cases extended liberty into conditions of custody and effective process. Puttaswamy and the autonomy cases recognised that constitutional freedom includes control over body, identity, intimacy, reproduction, information and, within carefully drawn limits, the manner of dying. Arrest and bail decisions have

returned these principles to the daily machinery of criminal justice. SaveLIFE Foundation contributes a distinct and important dimension. The 2016 judgment protected rescue from procedural harassment; the 2026 order treated trauma care as an Article 21 obligation and prescribed an interlocking emergency-response architecture. These cases do not erase the conceptual difference between life and personal liberty. They show, rather, that liberty is embodied and institution-dependent. A constitutional order cannot credibly celebrate autonomous choice while tolerating preventable institutional conditions that extinguish the chooser. The new horizons of Article 21 will therefore be determined in two directions. The negative direction concerns freedom from arbitrary arrest, intrusive surveillance, compelled bodily or mental intervention, discriminatory

paternalism and digitally enabled control. The positive direction concerns the minimum institutional conditions through which life, dignity and agency can be effectively secured. Both directions require discipline. Legality, equality, necessity, proportionality, procedural safeguards and effective remedies must remain the grammar of expansion. Personal liberty is thus neither a closed catalogue nor a judicial metaphor without limits. It is the Constitution's commitment that every person will be treated as an agent whose body, choices and freedom cannot be subordinated to power without compelling justification. The achievement of Indian jurisprudence lies in recovering that commitment from a restrictive text-bound beginning. Its future legitimacy will depend upon protecting the individual against new forms of domination while preserving principled boundaries between adjudication, legislation and administration.

## NOTES

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- 2 Universal Declaration of Human Rights, 1948, arts. 3 and
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- 8 AIR 1967 SC 1836.
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- 14 (1980) 1 SCC 81.
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- 19 (1997) 1 SCC 416.
- 20 (1977) 4 SCC 308; (1978) 1 SCC 240.
- 21 (2021) 3 SCC 713.
- 22 (2021) 2 SCC 427.

- 23 (2022) 10 SCC 51.
- 24 (2024) 7 SCC 576.
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- 26 (2025) 5 SCC 799.
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- 29 (1997) 1 SCC 301.
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- 31 (2017) 10 SCC 1.
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- 35 (2009) 9 SCC 1.
- 36 (2018) 16 SCC 368; (2018) 7 SCC 192.
- 37 (2018) 10 SCC 1.
- 38 (2019) 3 SCC 39.
- 39 (2023) 9 SCC 433.
- 40 (2018) 5 SCC 1; Common Cause (A Registered Society) v. Union of India, M.A. No. 1699 of 2019 in W.P. (C) No. 215 of 2005, order dated Jan. 24, 2023 (SC).
- 41 2026 INSC 222.
- 42 2023 SCC OnLine SC 1348.
- 43 (1989) 4 SCC 286.
- 44 (1996) 4 SCC 37; Law Commission of India, 201st Report, Emergency Medical Care to Victims of Accidents and During Emergency Medical Condition and Women under Labour (2006).
- 45 (2016) 7 SCC 194, paras. 18-23.
- 46 The Motor Vehicles (Amendment) Act, 2019, s. 45, inserting s. 134A in the Motor Vehicles Act, 1988.
- 47 W.P. (C) No. 726 of 2024, reportable order dated May 26, 2026 (SC), paras. 5-6.
- 48 Ibid., paras. 7-16.
- 49 Human Rights Committee, General Comment No. 36, Article 6: Right to Life, U.N. Doc. CCPR/C/GC/36 (2018), paras. 18-27.
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