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ROLE OF INDIAN JUDICIARY IN EXPANSION OF SCOPE OF RIGHT TO LIFE

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ABSTRACT

In India for understanding the Scope of Right to Life we have to take look into various decisions delivered by the Honourable Supreme Courts since independence. As per Article 21 of the constitution, no person shall be deprived of his life or personal liberty except according to procedure established by law. Question arises immediately after the constitution becomes effective, about the interpretation of various words under Article 21 like Life, Personal Liberty, procedure established by law etc. The Judiciary played a yeoman role in interpreting fundamental rights, particularly, Art. 21 where real meaning of the term “life” given. Life not only merely relates to physical existence but includes within its sphere right to live with human dignity. This Article will study the judicial creativity and the evolution of Art.21 with respect to right to life as per the needs of Indian society.

I.INTRODUCTION

“To no one will we sell, to no one deny or delay right or justice”¹

Magna Carta which is very influential till today is a masterpiece on the idea of the [liberty](#) of [citizens](#). Art 21 of the Indian constitution is an organic provision on right to life, which is occupying paramount importance in the Indian legal system. Indian judiciary is also

¹ One of the famous clauses of the four surviving copies of the 1215 Magna Carta.

doing a commendable work by giving widest possible interpretation to the provision in tune with the developing society. Right to life and personal liberty is the most cherished and pivotal fundamental human rights around which other rights of the individual revolve. Judicial activism played a vital role in expanding the scope of Right to life, which is the mother of all rights. This article will try to focus on the point that can the rights recognized under article 21 could exactly be related to the point for which they meant. The new interpretation given to Article 21 in Maneka Gandhi's Case has ushered a new era of expansion of horizons of right to life and personal liberty. This wide interpretation given to the article covers many rights which founding fathers of Constitution never would have contemplated. Supreme Court while interpreting article 21 has enlisted various rights, this article will study those unenumerated rights and role of judiciary in moulding this Article 21.

II.ARTICLE 21- PROTECTION OF LIFE AND PERSONAL LIBERTY

“No person shall be deprived of his life or personal liberty except according to procedure established by law²”

Initially the Article starts with a negative connotation but it has imbibed full of positive rights. It clearly means that the fundamental right has been provided against state only. If an act of private individual amounts to encroachment upon the personal liberty or deprivation of life of other person. Such violation would not fall under the parameters set for the Article 21. In such a case the remedy for aggrieved person would be either under Article 226 of the constitution or under general law. But, where an act of private individual supported by the state infringes the personal liberty or life of another person, the act will certainly come under the ambit of Article 21. Article 21 of the Constitution deals with prevention of encroachment upon personal liberty or deprivation of life of a person³. 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:

² Art 21 of the Indian Constitution

³ Role of Indian Judiciary in expansion of Right to life; LEX RESEARCH HUB

1) Right to life

2) Right to personal liberty

The Article prohibits the deprivation of the above rights except according to a procedure established by law .Article 21 corresponds to the *Magna Carta* of 1215, the Fifth Amendment to the American Constitution, Article 40(4) of the Constitution of Eire 1937, and Article XXXI of the Constitution of Japan, 1946.

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, as mentioned in Article 19 (1) (e)⁴.

III.MEANING AND CONCEPT OF RIGHT TO LIFE

“Even in the absence of Article 21 in the Constitution, the State has got no power to deprive a person of his life or liberty without the authority of law. This is the essential postulate and basic assumption of the rule of law and not of men in all civilised nations. Without such sanctity of life and liberty, the distinction between a lawless society and one governed by laws would cease to have any meaning.”⁵

From the words of **Justice Khanna**, life and personal liberty are inalienable to human existence. They constitute rights under natural law. All other rights of human being will have great utility or value only if the Article 21 is interpreted in the right and original sense. The right to life is undoubtedly the most fundamental right of all the rights. ‘Life’ in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc. Right to life is fundamental to our very existence without which we cannot live as human being and includes all those aspects of life, which go to make a man’s life meaningful, complete, and worth living. It is the only article in the Constitution that has received the widest possible interpretation. Under the canopy of Article 21 so many rights

⁴ Article 21 of the Constitution of India – Right to Life and Personal Liberty, [November 13, 2015](#), By [driht](#)

⁵ Article: 42 Years On, Son Overrules His Father’s Supreme Court Ruling ,[AVIRAL VIRK](#) UPDATED: 25.08.17

have found shelter, growth and nourishment. Thus, the bare necessities, minimum and basic requirements that is essential and unavoidable for a person is the core concept of right to life⁶.

IV.CIVIL GOVERNMENT IS ENTRUSTED WITH THE PURPOSE OF PROTECTING LIFE

According to Locke, the purpose of civil government is to “provide for their own safety and security, which is the end for which they are in society”. He then further observed that the law of nature is conterminous with the will of god. Principle of law of nature is preservation of mankind. Locke gave view that the natural law does not even allow any individual to take his own life. Each individual is also prohibited from taking any other person’s life by the theory of natural law. Although it is permitted that the life could be only taken whenever the person is exercising his right to self defence. Thus the state also could not possess any of the derivative power over life. The state has to respect the right to life of an individual. Finally, this law of nature, according to Locke, remained binding ‘s an Eternal Rule to all Men’ including government. He thus summarized both individual right and government obligation as the direct outflow of the law of nature that is the “Will of God”. This law of nature being coeval with mankind and dictated by God himself is of course superior in obligation to any other. It is binding over entire globe in all countries and at all times; no human laws is of any validity, if contrary to this: and such of them as are valid derive all their force, and all their authority, mediately or immediately, from this original. According to Blackstone ‘Law of Nature’ is ‘Will of God’ on which authority of all human law is dependent.

Samuel Rutherford, in *lex rex*, stated, "The safety of the people is the supreme and cardinal law to which all laws are to stop." He was of the opinion that this particular principle has been recognized on the basis of Roman law as well as Scriptural Precedent. Blackstone explained that the right to life is inherently part of man’s natural liberty. He explained, the right of personal security consists in a person's legal and uninterrupted enjoyment of his life, his limbs, his body,

⁶<https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/>

his health, and his reputation. Life is the immediate gift of God, a right inherent by nature in every individual⁷

V.JUDICIARY AND THE ART OF INTERPRETATION

Our Founding Fathers while drafting the Preamble gave precedence to Justice over Liberty, equality and fraternity by placing these philosophical terms in that particular order. Unless there is justice, liberty is meaningless. Justice and liberty together secure equality. There can be no fraternity unless there is justice, liberty and equality. In the chain of philosophical thoughts underlining the Constitution, the most significant is the concept of Justice. Duly honouring justice lays the foundation for the welfare and progress of society. It holds civilized beings and civilized nations together. In this scheme of things the role of judiciary becomes very important⁸.

Role of judiciary has always been to deliver justice to the matters which are brought in front of it. Conventionally this role was perceived as to deliver justice by strictly following the laws in vogue. But fulfilment of the promise given in preamble to secure Justice (social, economic and political) to all its citizens was not possible by the judiciary while strictly following its conventional role of interpreting law as legislated. It required a broader interpretation by judicial creativity and judicial activism to bring a social change keeping public interest in view. The judiciary has played a crucial role in evolving itself from its conventional role of interpreting the statute as legislated to the enhanced role of delivering justice to the masses by creative interpretation of the existing law and in absence of it making law to meet the needs of the society. In this process judiciary created a Magical Wand named Public Interest Litigation for delivering justice to the backward, poor, denied, downtrodden, destitute, deprived, disadvantaged handicapped, have-nots, half hungry, half clad millions, ignorant, illiterate, indigent, incapable, little Indian, lost and lonely, unaware, forlorn, forgotten, exploited, lowly and lost, weak, vulnerable and underprivileged class of society.

⁷ ROLE OF JUDICIARY IN EXPANDING HORIZONS OF ARTICLE 21 WITH RESPECT TO RIGHT TO PRIVACY Mr.Hemraj Rawat

⁸ Scope For „Judicial Activism“ Under The Scheme Of Indian Constitution

http://shodhganga.inflibnet.ac.in/bitstream/10603/32340/10/11_chapter%205.pdf

VI. ENHANCED ROLE OF THE INDIAN JUDICIARY

The conventional role of the judiciary is to deliver justice in the matters brought before it by interpreting the laws in vogue. After the independence initially the judiciary followed the principle of narrow construction and literal interpretation of statutes as well as strict rule of locus standi in dealing with cases. Strictly interpreted what is written. But this kind of traditional approach has changed to contemporary approach in order to have tune with the changing society. The Supreme Court of India played a significant role while interpreting Article 21 of the constitution and also has expanded the liabilities, duties and responsibilities of the State and its authorities through its interpretative and activist judicial process in several cases.

NARROW INTERPRETATION

The initial interpretation for “right to life” given by the supreme court in **A.K.Gopalan v. state of Madras**⁹ was it was not absolute right but a qualified right having risk of loss according to the procedure established by law because it is wide and fluid meaning. Supreme Court has given narrow interpretation to the word “law” says only state made laws and not rules of natural justice¹⁰. Further it was interpreted that validity of law cannot be questioned and also observed that ARTICLE 21 guaranteed against executive action unsupported by law. There are other important cases based on the concept of right to privacy- the 8-judge bench decision in *M.P. Sharma v. Satish Chandra* and the 6-judge bench decision in *Kharak Singh v. State of U.P.* In *M.P. Sharma*¹¹, the process of search and seizure was challenged as it violated Article 20(3) of the Constitution of India. In *Kharak Singh*¹², the court dealt with UP Police Regulations which provided for secret picketing, domiciliary visits, periodical inquiries, reporting of movements and collection of records of history-sheeters, violating Article 21 of Constitution of India. In both the cases, the court dismissed the existence of the fundamental right to privacy envisaged in the constitution. However, it shall be noted that in both the cases the petitioner’s arguments relied on

⁹ AIR 1950 SC.

¹⁰ MK .SHARMA V. SK .SINGH 1959.

¹¹ 1954 SCR 1077

¹² (1964) (1) SCR 332.

the A. K. Gopalan Case which enumerated that Article 19 and Article 21 are mutually exclusive. In In Re Santa Ram¹³ case the court gave restricted interpretation to life said “life does not include livelihood”

LIBERAL INTERPRETATION

The case has been overruled and considered bad in law after the landmark R. C. Cooper Case¹⁴ in which the court discarded the theory that *fundamental rights are water-tight compartments*. Hence, by virtue of this, principles enumerated in Kharak Singh and M. P Sharma should also be overruled. The concept of just animal survival has changed to civilized human being. Test of reasonableness was formulated. Procedure for depriving personal liberty must be fair and reasonable. In Gopalan case it was observed by the courts that due process clause is not applicable in India. But in SUNIL BHATRA V. DELHI ADMINISTRATION¹⁵ **JUSTICE KRISHNAIYER, V.R.** held that after R.C.COOPER and MANEKHA GANDHI case due process clause is ingrained in the constitution under Article 21. The court also found that to live with dignity there must be some minimum requirements in the case BANDHUA MUKTI MORCHA V. UNION OF INDIA¹⁶. The court interpreted the word procedure established by law also includes substantive due process. In BACHAN SINGH V. STATE OF PUNJAB¹⁷ the court held that test of reasonableness runs in all facet of the constitution. Further added that reasonableness is legally and physically essential element of equality and unarbitrariness to confirm with Article 14 of the Indian constitution. Supreme Court widened the scope of Article 21 and laid the foundation of judicial activism. Justice Ayyangar in kharak singh case observed that life not means animal existence. This was also re-strengthened by in Maneka Gandhi v. Union of India¹⁸, in which court ruled that enumeration in Article 19 does not deprive Article 21 of its expansive ambit. This case shows how liberal tendencies have influenced the Supreme Court in the matter of interpreting Fundamental Rights, especially Article 21. A great transformation has come about in the judicial attitudes towards the protection of personal liberty

¹³ AIR 1960 SC 932, 1960 3 SCR 499

¹⁴ (1978) 1 SCC 248

¹⁵ 1980 AIR 1579, 1980 SCR(2) 557

¹⁶ (1997) 10 SCC 549

¹⁷ AIR 1980 SC 898, 1980 CriLJ SC 636

¹⁸ AIR 1978 SC 597: (1967) 1 SCC 248.

after the traumatic experiences of the emergency during 1975-77 when personal liberty had reached its nadir as become clear from the Supreme Court pronouncement in Shukla case¹⁹. Since Maneka Case the Supreme Court has shown great sensitivity to the protection of personal liberty. The court has re-interpreted Art.21 and practically overruled Gopalan Case which is regarded as highly creative judicial pronouncement on the part of the Supreme Court. Not only that since Maneka case, the Supreme Court has given broader interpretation to Art. 21 to imply many more fundamental rights. In the course of time, Art. 21 have proved to be a very fruitful source of rights of the people. Article 21 would no longer mean the „Law“ could prescribe some semblance of procedure, however arbitrary or fanciful, to deprive a person of his personal liberty. It is now means that the procedure must satisfy certain requisites in the sense of being fair and reasonable. The concept of reasonableness must be projected in the procedure contemplated by Art. 21. The court has now assumed the power to adjudge the fairness and justness of procedure established by Law to deprive a person of his personal liberty. The court has reached this conclusion by holding Arts. 21, 19 and 14 are not mutually exclusive, but are inter-linked²⁰.

Further the Supreme Court in **Peoples Union for Democratic Rights v. Union of India**²¹, held that non-payment of minimum wages to the workers employed in various Asiad Projects in Delhi was a denial to them of their right to live with basic human dignity and violative of Article 21 of the Constitution. Bhagwati J. held that, rights and benefits conferred on workmen employed by a contractor under various labour laws are clearly intended to ensure basic human dignity to workmen.

In **Vishakha v. State of Rajasthan**²², the Supreme Court has declared sexual harassment of a working woman at her work as amounting to violation of rights of gender equality and rights to life and liberty which is clear violation of Articles 14, 15 and 21 of the Constitution. In the landmark judgment, Supreme Court in the absence of enacted law to provide for effective

¹⁹ ADM Jabalpur v. Shivkant Shukla

²⁰ 13 Jain, M.P., Indian Constitutional Law, 7th Ed., P-1121.

²¹ 1982 AIR 1473, 1983 SCR (1) 456

²² AIR 1997 SC 3011 : (1997) 6 SCC 241

enforcement of basic human rights of gender equality and guarantee against sexual harassment laid down guidelines

In **Bodhisattwa Gautam v. Subhra Chakraborty**²³ the court observed that Rape has been held to a violation of a person's fundamental life guaranteed under Art. 21. Right to life right to live with human dignity. Right to life, would, therefore, include all those aspects of life that go on to make life meaningful, complete and worth living.

Reputation is an important part of one's life. It is one of the finer graces of human civilization that makes life worth living. The Supreme Court referring to **D.F. Marion v. Minnie Davis**²⁴ in **Smt. Kiran Bedi v. Committee of Inquiry**²⁵ held that "*good reputation was an element of personal security and was protective by the Constitution, equally with the right to the enjoyment of life, liberty and property. The court affirmed that the right to enjoyment of life, liberty and property. The court affirmed that the right to enjoyment of private reputation was of ancient origin and was necessary to human society.*"

The same American Decision has also been referred to in the case of **State of Maharashtra v. Public Concern of Governance Trust**²⁶, where the Court held that good reputation was an element of personal security and was protected by the constitution, equally with the right to the enjoyment of life, liberty and property.

VII. RIGHT TO LIFE NOT INCLUDES RIGHT TO DIE

The definition of 'life' has been provided in *P Rathinam v. Union of India*²⁷ as follows:

The right to live with human dignity and the same does not connote continued drudgery. It takes within its fold some of the fine graces of civilization which makes life worth living and that expanded concept of life would mean the tradition, culture and heritage of the person concerned.

The question in this case was constitutional validity of Sec 309 of IPC. The Supreme Court held

²³ 1996 AIR 922, 1996 SCC (1) 490

²⁴ 55 American LR 171

²⁵ 1989 AIR 714, 1989 SCR (1) 20

²⁶ AIR 1989 SC 714

²⁷ AIR 1994 ; SC 1844

that right to live which Article 21 speaks of can be said to bring in its trial the right not to live a forced life. It also rejected the constitutional validity of Sec 309 of IPC based on the Article 14 but upheld the challenge based on Article 21. It was further observed that physical and mental health is important for right to life because without good health civil and political rights can't be enjoyed²⁸. In BOARD OF TRUSTEES V. DILIP KUMAR it was held that right to live means to live with human dignity and not continued drudgery. In Maruti Dulab V. State Of Maharashtra(1987) Bombay high court held that right to live will include right not to live. Delhi High Court held that continuance of Sec 309 is an anachronism unworthy of human society like ours. 42nd LAW COMMISSION also recommended that Sec 309 of IPC is harsh and unjustifiable. Bill was introduced in this regard but it was lapsed. Further instances the Supreme Court stood firmly that right to life does not include right to die²⁹. This issue again raised before the court in Gian Kaur v. State of Punjab. In this case a five judge Constitutional Bench of the Supreme Court overruled the P. Ratinam's case and held that Right to Life under Article 21 of the Constitution does not include Right to die or Right to be killed and there is no ground to hold that the section 309, IPC is constitutionally invalid. To true meaning of the word 'life' in Article 21 means life with human dignity. Any aspect of life which makes life dignified may be include in it but not that which extinguishes it. The 'Right to Die' if any, is inherently inconsistent with the Right to life as is death with life.

VIII.VARIOUS HORIZONS OF RIHGHOTTO LIFE

Article 21 imposed a restriction upon the state where it prescribed a procedure for depriving a person of his life or personal liberty.

This view has been further relied upon in a case of **Francis Coralie Mullin v. The Administrator, Union Territory of Delhi and others** as follows: Article 21 requires that no one shall be deprived of his life or personal liberty except by procedure established by law and this procedure must be reasonable, fair and just and not arbitrary, whimsical or fanciful. The law of preventive detention has therefore now to pass the test not only for Article 22, but also of Article 21 and if the constitutional validity of any such

²⁸ CESC LTD V. SUBHAS CHANDRA

²⁹ Article 21 Protection of life and not extinction held in case Lakendar singh v. state of Maharashtra

law is challenged, the court would have to decide whether the procedure laid down by such law for depriving a person of his personal liberty is reasonable, fair and just. In another case of *Olga Tellis and others v. Bombay Municipal Corporation and others*, it was further observed: Just as a mala fide act has no existence in the eye of law, even so, unreasonableness vitiates law and procedure alike. It is therefore essential that the procedure prescribed by law for depriving a person of his fundamental right must confirm the norms of justice and fair play. Procedure, which is just or unfair in the circumstances of a case, attracts the vice of unreasonableness, thereby vitiating the law which prescribes that procedure and consequently, the action taken under it. As stated earlier, the protection of Article 21 is wide enough and it was further widened in the case of *Bandhua Mukti Morcha v. Union of India and others* in respect of bonded labour and weaker section of the society.

The meaning of the word life includes the right to live in fair and reasonable conditions, right to rehabilitation after release, right to live hood by legal means and decent environment. The expanded scope of Article 21 has been explained by the Apex Court in the case of *Unni Krishnan v. State of A.P.* and the Apex Court itself provided the list of some of the rights covered under Article 21 on the basis of earlier pronouncements and some of them are listed below:

1. The right to go abroad
2. The right to privacy
3. The right against solitary confinement
4. The right against hand cuffing
5. The right against delayed execution
6. The right to shelter
7. The right against custodial death
8. The right against public hanging
9. Doctor assistances

It was observed in **Unni Krishnans** case that Article 21 is the heart of Fundamental Rights and it has extended the Scope of Article 21 by observing that the life includes the education as well as, as the right to education flows from the right to life.

As a result of expansion of the scope of Article 21, the Public Interest Litigations in respect of children in jail being entitled to special protection, health hazards due to pollution and harmful drugs, housing for beggars, immediate medical aid to injured persons, starvation deaths, the right to know, the right to open trial, inhuman conditions in aftercare home have found place under it.

Through various judgments the Apex Court also included many of the non-justifiable Directive Principles embodied under part IV of the Constitution and some of the examples are as under:

1. Right to pollution free water and air
2. Protection of under trail prisoners
3. Right of every child to a full development
4. Protection of cultural heritage

Maintenance and improvement of public health, improvement of means of communication, providing human conditions in prisons, maintaining hygienic condition in slaughter houses have also been included in the expanded scope of Article 21. this scope further has been extended even to innocent hostages detained by militants in shrine who are beyond the control of the state.

The Apex Court in the case of **S.S. Ahuwalia v. Union of India** and others it was held that in the expanded meaning attributed to Article 21 of the Constitution, it is the duty of the State to create a climate where members of the society belonging to different faiths, caste and creed live together and, therefore, the State has a duty to protect their life, liberty, dignity and worth of an individual which should not be jeopardized or endangered. If in any circumstance the state is not able to do so, then it cannot escape the liability to pay compensation to the family of the person killed during riots as his or her life has been extinguished in clear violation of Article 21 of the Constitution. While dealing with the provision of Article 21 in respect of personal liberty,

Hon'ble Supreme Court put some restrictions in a case of **Javed and others v. State of Haryana**, AIR 2003 SC 3057 as follows: at the very outset we are constrained to observe that the law laid down by this court in the decisions relied on either being misread or read divorced of the context. The test of reasonableness is not a wholly subjective test and its contours are fairly indicated by the Constitution. The requirement of reasonableness runs like a golden thread through the entire fabric of fundamental rights. The lofty ideals of social and economic justice, the advancement of the nation as a whole and the philosophy of distributive justice- economic, social and political- cannot be given a go-by in the name of undue stress on fundamental rights and individual liberty. Reasonableness and rationality, legally as well as philosophically, provide colour to the meaning of fundamental rights and these principles are deducible from those very decisions which have been relied on by the learned counsel for the petitioners.

The Apex Court led a great importance on reasonableness and rationality of the provision and it is pointed out that in the name of undue stress on Fundamental Rights and Individual Liberty, the ideals of social and economic justice cannot be given a go-by. Thus it is clear that the provision Article 21 was constructed narrowly at the initial stage but the law in respect of life and personal liberty of a person was developed gradually and a liberal interpretation was given to these words. New dimensions have been added to the scope of Article 21 from time to time. It imposed a limitation upon a procedure which prescribed for depriving a person of life and personal liberty by saying that the procedure which prescribed for depriving a person of life and personal liberty by saying that the procedure must be reasonable, fair and such law should not be arbitrary, whimsical and fanciful. The interpretation which has been given to the words life and personal liberty in various decisions of the Apex Court, it can be said that the protection of life and personal liberty has got multi dimensional meaning and any arbitrary, whimsical and fanciful act of the State which deprived the life or personal liberty of a person would be against the provision of Article 21 of the Constitution.

IX. PENUMBRAL RIGHTS EXPOUNDED BY THE COURT³⁰

³⁰ Role of Indian Judiciary in expansion of Right to life; Lex research Hub

- **Right to Shelter**
- **Right to Social Security and Protection of Family**
- **Right Against Honour Killing**
- **Right to Health**
- **Right to Medical Care**
- **Euthanasia and Right to Life**
- **Sentence of death –Rarest of rare cases**
- **Right to get Pollution Free Water and Air**
- **Right to Clean Environment**
- **Right Against Noise Pollution**
- **Right to Know or Right to Be Informed**

X.CONTEMPORARY CHANGES IN ARTICLE 21

Recently, in **Justice K.S. Puttaswamy v. Union of India**³¹ 9 judge bench delivered landmark judgment and unanimously declaring the Right to Privacy is fundamental right under constitution. SC has categorically held that Right to privacy will be protected as intrinsic part of Right to life and personal liberty under Article 21 of constitution of India. This Judgment represents quantum leap in the evolution of legal jurisprudence pertaining to privacy in India. At a time when our Constitution comes into existence, the nature and scope of personal liberty was different if we compare it in today's world. Now, the technology has become part of our life and because of social media and its reach there is a need to protect our personal space, so that nobody intrude into it without reasonable cause. Therefore, in 1950 the Supreme Court refused to make

³¹ (2014) 6 SCC 433

Right to Privacy as a fundamental right. But this narrow interpretation may not suit present scenario where everyone is having access to internet and having mobile phone to click pictures and circulate it throughout the world. Therefore, need arose to widen the scope of term “Life” and “Personal Liberty. Life can’t be seems to be in existence if anyone can interfere into anyone’s space without his or her permission without any legal validity. So for any civilized society, there can be no attributes more valuable than the life and personal liberty of its people. So in technological era where privacy can be interfere by anyone and circulated at any corner of the world, its consequences cannot be ignored. Therefore, judiciary has to look into this matter in order to protect the privacy of the individuals which is the part of life with dignity.

XI.CONCLUSION

“The human right to life and human existence are coterminous and coextensive”³²

- Paul S McConnell

The concept of right to life could be traced in natural law. The right to life is one of the pious rights and it is one of the Gods given right to the individual. The right to life has been asserted to be a divine right as it belongs to its holder and this could not be adjudicated by the judge, but could be only respected. The Indian judiciary has played a commendable role in expounding the scope of right to life. However, through various judgments over the years, Indian courts have interpreted various other rights in the Constitution and increased the scope of Article 21, especially right to life with its broad interpretation. Worldwide judiciary is considered as the guardian of saving democracy. Recent example would be the Srilankan president abused his power and thrown constitutional provisions to wind. In India, changes which ought to have been enacted by parliament have been facilitated by the Supreme Court. Judicial activism does not usurp the powers of legislature or undermines federalism rather enhances cooperative federalism. In India the Rule of Law is established only because of the pro active role of judiciary. The judiciary interpreted the laws not in pedantic manner rather in progressive manner with the needs and demands of the society. The organic example for this would be the judgment on right to privacy. Positive attitude of Judiciary in expanding the scope of right to life is very evident from

³² Paul S McConnell, “The Unalienable right to life”, 8J *Christian Jurisprudence* 53 (1990).

the above judgment. Test of reasonableness had been given due weightage by judiciary and reiterated the rule of law firmly in several case. The law is not static rather changing with the changing needs of the society. The law is growing with the growth of the society. This establishes a relationship between law and the society and shows that in India there is scope of both preservation and expansion of law. Therefore it is concluded that Judiciary plays a significant role in true spirit of governance by expanding the scope of right to life.

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