

Right to Life (Article 21)

Right to Life

According to **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 law.”

- This fundamental right is available to every person, citizens and foreigners alike.
- Article 21 provides two rights:
 - Right to life
 - Right to personal liberty
- The fundamental right provided by Article 21 is one of the most important rights that the Constitution guarantees.
- The [Supreme Court of India](#) has described this right as the ‘**heart of fundamental rights**’.
- The right specifically mentions that no person shall be deprived of life and liberty except as per the procedure established by law. This implies that **this right has been provided against the State only**. State here includes not just the government, but also, government departments, local bodies, the Legislatures, etc.
- Any private individual encroaching on these rights of another individual does not amount to a violation of Article 21. The remedy for the victim, in this case, would be under Article 226 or under general law.
- The right to life is not just about the right to survive. It also entails being able to live a complete life of dignity and meaning.
- The chief goal of Article 21 is that when the right to life or liberty of a person is taken away by the State, it should only be according to the prescribed procedure of law.

Interpretation of Article 21

Judicial intervention has ensured that the scope of Article 21 is not narrow and restricted. It has been widening by several [landmark judgements](#).

A few important cases concerned with Article 21:

1. **AK Gopalan Case (1950):** Until the 1950s, Article 21 had a bit of a narrow scope. In this case, the SC held that the expression ‘procedure established by law’, the Constitution has embodied the British concept of personal liberty rather than the American ‘due process’.
2. **Maneka Gandhi vs. Union of India Case (1978):** This case overturned the Gopalan case judgement. Here, the SC said that Articles 19 and 21 are not watertight compartments. The idea of personal liberty in Article 21 has a wide scope including many rights, some of which are embodied under Article 19, thus giving them ‘additional protection’. The court also held that a law that comes under Article 21 must satisfy the requirements under Article 19 as well. That means any procedure

under law for the deprivation of life or liberty of a person must not be unfair, unreasonable or arbitrary. Read the [Maneka Gandhi case](#) in detail in the linked article.

3. **Francis Coralie Mullin vs. Union Territory of Delhi (1981):** In this case, the court held that any procedure for the deprivation of life or liberty of a person must be reasonable, fair and just and not arbitrary, whimsical or fanciful.
4. **Olga Tellis vs. Bombay Municipal Corporation (1985):** This case reiterated the stand taken earlier that any procedure that would deprive a person's fundamental rights should conform to the norms of fair play and justice.
5. **Unni Krishnan vs. State of Andhra Pradesh (1993):** In this case, the SC upheld the expanded interpretation of the right to life.

The Court gave a list of rights that Article 21 covers based on earlier judgments. Some of them are:

1. Right to privacy
2. Right to go abroad
3. Right to shelter
4. Right against solitary confinement
5. Right to social justice and economic empowerment
6. Right against handcuffing
7. Right against custodial death
8. Right against delayed execution
9. Doctors' assistance
10. Right against public hanging
11. Protection of cultural heritage
12. Right to pollution-free water and air
13. Right of every child to a full development
14. Right to health and medical aid
15. Right to education
16. Protection of under-trials

Given below are a few other important links related to Indian law and rights, aspirants can refer to the same for UPSC preparation:

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| Judicial Activism | High Courts of India |
| Rule of Law | Law Commission of India |
| Important Acts that Transformed India | Comparison of Fundamental Rights in India and the United States |

Right to Life and Suicide

Section 309 of the Indian Penal Code (IPC) makes attempted suicide a criminal offence which is punishable with imprisonment and fine.

- There were many debates on whether this should continue since mental health experts have argued that people who attempt suicide need adequate counselling and not punishment.
- The Mental Healthcare Act, 2017 was passed by the Parliament and the law came into force in 2018. This Act is meant to provide “for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services.”
- **This law decriminalises suicide in India.**
- The law states, “*Notwithstanding anything contained in section 309 of the Indian Penal Code, any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code*”.

Arguments against decriminalising suicide:

1. No person has a complete autonomy with respect to his/her life. He/she has a duty with respect to his family. In many cases, a person’s suicide could lead to a family being destitute.
2. Decriminalising suicide might lead to decriminalising the **abetment to suicide**. The counterargument to this point is that suicide alone can be decriminalised by having the necessary amendments or legal provisions to cover abetment to suicide.

Arguments in favour of decriminalising suicide:

1. This is the only case where an attempt to a crime is punishable and not the crime itself (because a person becomes beyond the reach of law if suicide is complete).
2. Suicide is committed/attempted by people who are depressed and under severe stress. People who attempt suicide need counselling and medical help, not a jail warden’s severe authority.
3. Decriminalising an attempt to suicide is different from conferring the ‘right to die’.

Right to Life and Euthanasia

There are many debates on whether the right to life also extends to the right to die, especially to die with dignity. Euthanasia is a topic that is frequently seen in the news. Many countries have legalised euthanasia (the Netherlands, Belgium, Colombia, Luxembourg).

Euthanasia is the practice of intentionally ending life in order to relieve suffering and pain. It is also called ‘mercy killing’.

There are various types of euthanasia: Passive and Active.

Passive Euthanasia: This is where treatment for the terminally-ill person is withdrawn, i.e., conditions necessary for the continuance of life are withdrawn.

Active Euthanasia: This is where a doctor intentionally intervenes to end someone’s life with the use of lethal substances.

This is different from **physician-assisted suicide** where the patient himself administers the lethal drugs to himself. In active euthanasia, it is a doctor who administers the drugs.

Voluntary euthanasia: Under this, euthanasia is carried out with the patient’s consent.

Non-voluntary euthanasia: Under this, patients are unable to give consent (coma or severely brain-damaged), and another person takes this decision on behalf of the patient.

Involuntary euthanasia: Euthanasia is done against the will of the patient, and this is considered murder.

International Position on Euthanasia:

In the Netherlands and Belgium, both euthanasia and physician-assisted suicide are legal.

In Germany, euthanasia is illegal while physician-assisted suicide is legal.

Both euthanasia and physician-assisted suicide are illegal in India, Australia, Israel, Canada and Italy.

Euthanasia in India

Passive euthanasia has been made legal in India.

- In 2018, the SC legalised passive euthanasia by means of the withdrawal of life support to patients in a permanent vegetative state.
- This decision was made as a part of the verdict in the famous case involving Aruna Shanbaug, who had been living in a vegetative state for more than 4 decades until her death in 2015.
- The court rejected active euthanasia by means of lethal injection. **Active euthanasia is illegal in India.**
- As there is no law regulating euthanasia in the country, the court stated that its decision becomes the law of the land until the Indian parliament enacts a suitable law.
- Passive euthanasia is legal under strict guidelines.
- For this, patients must give consent through a living will, and should either be in a vegetative state or terminally ill.
 - **Living Will:** It is a legal document in which a person specifies what actions should be taken for their health if they are no longer able to make such decisions for themselves due to illness or incapacity.
- When the executor (of the living will) becomes terminally ill with no hope of recovery, the doctor will set up a hospital medical board after informing the patient and/or his guardians.