Discuss the Judicial Interpretation of Article 21 and various derivative rights with case laws.

**Right to Life & Personal Liberty**

The judicial interpretation of Article 21 of the Indian Constitution and judicial activism on the part of the Supreme Court of India. It examines the reasons for judicial creativity and justifies the role played by the Supreme Court of the India in protection the fundamental rights of the citizens, when the legislative and executive failed in performing their duties. To some extent, judicial activism on the part of judiciary derives from underlying weakness and failure on the part of the other machineries of the state to perform their duties. Right to life and personal liberty is the most cherished and pivotal fundamental human rights around which other rights of the individual revolve and, therefore, the study assumes great significance. The study of right to life is indeed a study of the Supreme Court as a guardian of fundamental human rights. The Constitution of India provides Fundamental Rights under Chapter III, which are guaranteed by the constitution.  
  
 **MEANING OF '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. 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. The notion that certain rights are inalienable was embodied in the American  
Declaration of Independence (1776) in the following terms: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.

In the case of **Munn v. State of Illinois**, 94 U.S. 113 (1876) the US Court referred to the observation of Justice Field, wherein he stated that by the term 'life' as here used something more is meant than a mere animal existence. Thus, it embraces within itself not only the physical existence but also the quality of life. It was the first case on the definition of word 'LIFE'.  
  
**MEANING OF PERSONAL LIBERTY:** Liberty of the person is one of the oldest concepts to be protected by national courts. As long as 1215, the English Magna Carta provided that, No freeman shall be taken or imprisonedÂ  butÂ  by the law of the land.  
**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  
  
**Concept of Right to Life And Personal Liberty & Its Changing Dimensions:** The Traditional Approach of the Supreme Court, It is hard to appreciate fully the extent of development of right to life without an overview of the traditional approach. Article 21 lays down that no person shall be deprived of his life and personal liberty except according to the procedure established by law. It was this procedure established by law that was first questioned and interpreted by the Supreme Court of India in the case of **A.K. Gopalan v. State of Madras**[4] the validity of the Preventive Detection Act. 1950 was challenged.   
  
**Aspect of Personal Liberty:**  
[Maneka Gandhi v. UOI](http://www.legalserviceindia.com/articles/21_art.htm)[10] is a landmark case of the post- emergency period. This case shows how liberal tendencies have influenced the Supreme Court in the matter of interpreting Fundamental Rights, Particularly Art. 21, A great Transformation has came about in the judicial attitude towards the protection of personal liberty after the traumatic experiences of the emergency during 1975-77 when personal liberty had reached its lowest[11]. The period characterized as the darkest period in the Indian Constitutional history As become clear from the Supreme Court pronouncement in **A.D.M Jabalpur v. Shiva Kant Shukla**[12]. Popularly known as Habeas Corpus Case and has been severely criticized by scholars in India. It needs separate order by president. Infact this case has acted as a accelerating agent for the transformation of the judicial view on Art.21[13].  
  
**RIGHT TO LIVELIHOOD:** In the beginning the Supreme Court was of the view that the right to life in rt. 21 would not include livelihood. In re Sant Ram,[26] a case in pre-Maneka era, the Supreme Court ruled that right to livelihood would not fall within the expression life in Art. 21. The Supreme Court reiterated this proposition in several cases even in post- Maneka era. But then the view of the Supreme Court underwent a change. With the defining of the word life in Art. 21 in a broad and expansive manner, the Court came to hold that the right o life guaranteed by Art. 21 include the right to livelihood.[27] The Supreme Court has argued in the [Olga Tellis v. Bombay Municipal Corp](http://www.legalservicesindia.com/forum/topic112-olga-tellis-ors-vs-bombay-municipal-council.html).[28] that the right to livelihood is born out of the right to life, as no person can live without the means of living, i.e., the means of livelihood.  
  
**SLUM DWELLERS**: In Olga Tellis v. Bombay Municipal Corp.[29], the Supreme Court has made a significant pronouncement on the impact of Art. 21 on urbanization. In this case the Supreme Court accepted the plea that the right to life guaranteed by Art. 21 include the right to livelihood. The Supreme Court ruled that the eviction of persons from pavement or a slum not only results in deprivation of shelter but would also inevitably lead to deprivation of their means of livelihood which means deprivation of their life.  
  
**RIGHT TO SHELTER:** In **Shantisar Builders v. Narayan Khimlal Totame**[30] the Supreme Court has ruled that the right to life is guaranteed in any civilized society. That would take within its scope the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in. The difference between the need of an animal and a human being for shelter has to be kept in view. For an animal, it is the bare protection of the body; for a human being it has to be a suitable accommodation which would allow his to grow in all aspect physical, mental and intellectual. This concept was further expounded in the case of**Chameli Singh v. State of Uttar Pradesh**[31]. In the case of U.P. Avas Evam Vikas Parishad[32] case the Supreme Court stated that the right to shelter is a Fundamental Right, which springs from the right to residence assured in Art. 19(1) (e) and right to life under Art. 21 of the Constitution.  
  
**RIGHT TO ENVIRONMENT**: Apart from several personal rights, the Supreme Court has made a significant contribution to the welfare of the people by using Art.21 for the improvement of the environment. In **Subhash Kumar v. State of Bihar**,[33] the Apex Court held that enjoyment of pollution free environment is included in the right to life under Art.21. Also in the case of **A.P. Pollution Control Board v. M.V.Nayudu,**[34] the Supreme Court has made very valuable suggestions for the improvement of adjudicatory machinery under the various environmental laws.   
 **RIGHT TO MEDICAL CARE:** In **Parmananda Katara v. Union of India**[37] the Supreme Court pronounced that preservation of life is of paramount importance. Once life is lost, status quo ante cannot be restored. It is the duty of the doctors to preserve the life without any discrimination. In **Paschim Banga Khet Mazdoor Samiti v. State of West Bengal**[38] the Supreme Court ruled that the Constitution envisages establishment of a welfare state, and in a welfare state, the primary duty of the government is to provide to provide adequate medical facilities for the people..  
  
**RIGHT AGAINST SEXUAL HARASSMENT:** The Supreme Court ensured that the female workers are not sexually harassed by their male co-workers at their work places. In Vishaka v. State of Rajasthan[39] the Supreme Court has declared sexual harassment of a working woman at her place of work as amounting to violation of rights of gender equality and right to life and liberty which is a clear violation of Arts. 14, 15 and 21 of the Constitution. Rape has been held to be a violation of a person's fundamental rights guaranteed under Art. 21. The Supreme Court held that rape is a crime against basic human rights and is also violative of the victim's right to life contained in Art. 21.[40]  
  
**RIGHT OF MEDICAL CONFIDENTIALITY:** In X. v. Hospital Z[41] the Supreme Court argued that a lady proposing to marry a person is entitled to all the human rights which are available to humans. The right to life guaranteed under Art. 21 would positively include the right to be told that a person, with whom she was proposed to be married, was the victim of a deadly disease, which was sexually communicable.  
  
**RIGHT OF LEGAL AID:** In **Madhav Hayawandan rao Haskot v. State of Maharashtra**[42] the Supreme Court held that an accused who cannot afford legal action is entitled for legal aid at the cost of the State. Also, held in the case of [Hussainara Khatoon v. State of Bihar](http://www.legalserviceindia.com/article/l261-Legal-Aid.html)[43] the Supreme Court held that a prisoner shall not be imprisoned for a period longer than the sentence pronounced by the court else it will led to deprivation of the prisoner's right to life to life and liberty under Art. 21.  
  
**RIGHT TO EDUCATION:** The right to education has also been held to be a part of Article 21. A series of decisions, including Mohini Jain v. State of Karnataka[44], Unnikrishnan J.P. v. State of A.P.[45] etc. culminated in an amendment to the Constitution being moved in 1997, leading to the incorporation of Article 21-A, which reads as under:  
The State shall provide free and compulsory education to all children of 6 to 14 years in such manner as the State, may by law determine  
Following this, the Right of Children to Free and Compulsory Education Act, 2009 was enacted.  
 **RIGHT TO SPEEDY TRIAL:** Speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in Art. 21 of the Constitution and any accused who is denied this right of speedy trial is entitled to approach the Court for the purpose of enforcing such right. The Supreme Court held in [Hussainara Khatoon v. Home Secretary](http://www.legalserviceindia.com/articles/laid.htm), State of Bihar that speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in Art. 21 of the Constitution and any accused who is denied this right of speedy trial is entitled to approach Supreme Court under Art. 32 for the purpose of enforcing such right and the Supreme Court in discharge of its constitutional obligation have the power to give necessary directions to the State.  
  
**RIGHT TO FREE LEGAL AID:**In state of **Maharashtra v. Manubhai Pragaji Vashi & ors**[46]. That will in turn enable the State and other authorities to provide free legal aid and ensure that opportunities for securing justice are not denied to any citizen on account of any disability. These aspects necessarily flowing from Articles 21 and 39A of the Constitution. In M.H Hoskot v. State Of Maharashtra, Justice Krishna Iyer observed that providing free legal aid is the State's duty and not Government's charity. Held that a prisoner was entitled to a copy of the judgement and free legal aid if he was unable to secure legal assistant.  
  
**RIGHT TO LIFE UNDER ARTICLE 21 DOES NOT INCLUDE RIGHT TO DIE:**  
Human life is precious one. The Supreme Court has shown radical change in its view. In Gian Kaur v. State of Punjab[47] while deciding the validity of Sec.309 of I.P.C, the Court overruled the earlier view which was taken in P. Rathinam's case[48] and held that right to life does not include right to die and the extinction of life is not included in protection of life thus provision penalizing attempt to commit suicide is not violative to Art. 21 of the Constitution. But in landmark judgement Supreme Court reverse the arlier view and approves passive euthanasia, and upholds right to die with dignity, Supreme Court permits creation of a living will that will allow individuals to decide against artificial life support[49].

## ARTICLE 21 INCLUDES RIGHT TO CLAIM COMPENSATION

The Supreme Court of India has also shown its dynamic and activist role in compensatory jurisprudence. For the first time in **Nilabati Behera v State of Orissa**[50], The Supreme Court directed the respondent-State of Orissa to pay the sum of Rs.1,50,000 to the petitioner and a further sum of Rs.10,000 as to be paid to the Supreme Court Legal Aid Committee. the Supreme Court held right to compensation as a fundamental right under Article 21 of the Constitution. Earlier in **Katri V. State of Bihar** 1981, it was the discretion of the Court wherein it has awarded compensation to the victim.   
**RIGHT TO PRIVACY:** For the first time, the issue was raised in [Kharak Singh v State of Tamil Nadu](http://www.legalserviceindia.com/legal/article-349-right-to-life-and-personal-liberty-an-overview.html) 1993. Justice Subba Rao in his minority judgment said that the right to privacy flows from the expression personal liberty. This minority judgment paved path for the further development. In [R. Rajgopal v. State of Tamil Nadu](http://www.legalservicesindia.com/article/435/A-Case-Study-on-R.-Rajagopal-alias-R.R.-Gopal-and-Another-Vs.-State-of-Tamil-Nadu.html) 1995. the Supreme Court observed that right to privacy is nothing but 'right to be let alone and it is implicit in right to life and personal liberty guaranteed under Art.21 of Indian Constitution. And also in Lillu @ Rajesh and Anr v. State of Haryana,[53] the Supreme Court held that Medical procedures should not be carried out in a manner that constitutes cruel, inhuman, or degrading treatment and health should be of paramount consideration while dealing with gender-based violence. The State is under an obligation to make such services available to survivors of sexual violence.   
**Recent Cases under Art.21:**  
SC allows women entry to Sabarimala temple, says exclusionary practices violate right to worship under Art.25, 14, and 21. Rules disallowing women in Sabarimala are unconstitutional and violative of Article 21, Supreme Court Struck down Victorian era Section 497 of IPC as Unconstitutional, Plea filed in the Supreme Court challenging the constitutional validity of Section 497 of IPC, by an NRI from Kerala, Joseph Shine, who in his petition said Section 497 was "prima facie unconstitutional on the ground that it discriminates against men and violates Article 14, 15 and 21 of the Constitution".  
  
  
**CONCLUSION:** Article 21 of the Constitution says, No person shall be deprived of his life or personal liberty except according to procedure established by law. Maneka Gandhi's case is not only a landmark case for the interpretation of Article 21 but it also gave an entirely new viewpoint to look at the Chapter III of the Constitution. Prior to Maneka Gandhi's decision, Article 21 guaranteed the right to life and personal liberty only against the arbitrary action of the executive and not from the legislative action. Broadly speaking, what this case did was extend this protection against legislative action too. In Maneka Gandhi's case, the meaning and content of the words 'personal liberty' again came up for the consideration of the Supreme Court. In this case the Supreme Court not only overruled A.K. Gopalan's case but also widened the scope of words 'personal liberty'. After that the meaning Art. 21 right to life & personal liberty has changed multidimensional approaches and reached the new horizon. But Judicial activism leads to some SUPREME ERROR and sometimes it also mirror that when judicial activism crosses its limits and starts becoming judicial adventurism and it takes the form of judicial overreach. Moreover Indian Court deliberately failed to recognise essence of LIFE in True Indian version. i.e Life in Hinduism embraces Dharma, Artha, Kama, Moksha- without which meaningless. Article 21, Right to Life without other Article just a alive human flesh.