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## **Constitution of India Art 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.**

### SYNOPSIS

#### **Cited in Sankaranarayanan 2017**

Nature and Scope—The expression “personal liberty” in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have been raised to the status of distinct fundamental rights and given additional protection under Article 19, *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

Protection under Article 21 covers non citizens also *NHRC v. State of Arunachal Pradesh*, (1996) 1 SCC 742.

Right to Life—Article 21, 39(e), (f), 41 and 42 are meant to ensure a life with human dignity, *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161, 183, 184 and *Bandhua Mukti Morcha v. Union of India*, (1991) 4 SCC 177.

Right to life does not include right to die. It provides protection of life, a right to live with dignity up to natural death, including a dignified procedure of death, but does not comprehend extinction of life which amount to an unnatural death, *Gian Kaur v. State of Punjab*, (1996) 2 SCC 648: 1996 SCC (Cri) 374.

Right to life & Personal Liberty—Includes detenu’s right to confer with legal adviser and meet family members and friends and any unreasonable restriction in this regard would violate Article 21 and 14.

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Right to life embraces within its sweep not only physical existence but the quality of life, *Confederation of Ex-Servicemen Assns. v. Union of India*, (2006) 8 SCC 399: 2006 SCC (L&S) 2002.

“Right to live with dignity” is included in “right to life and personal liberty”, *Danial Latifi v. Union of India*, (2001) 7 SCC 740.

Ecology—Public Trust Doctrine is Part of the Indian law. It extends to natural resources such as rivers, forests, seashores, air etc. for the purpose of protecting the ecosystem, *M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388.

Self-preservation—Self-preservation of one’s life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable, *Surjit Singh v. State of Punjab*, (1996) 2 SCC 336.

Right to Shelter—does not mean a mere right to a roof over one’s head, *Chameli Singh v. State of U.P.*, (1996) 2 SCC 549.

Delay in Execution of Death Sentence—Inordinate delay in disposal of mercy petition entitles a convict to approach Supreme Court for commutation of sentence on grounds of violation of fundamental rights. But time taken in judicial proceedings up to the final judicial verdict to be excluded in considering the delay in execution, *Triveniben v. State of Gujarat*, (1989) 1SCC 678.

Custodial Violence—Torture, rape, death in police custody/lock-up infringes Article 21 as well as basic human rights and strikes a blow at rule of law. Torture involves not only physical suffering but also mental agony. It is naked violation of human dignity and

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destructive of human personality, D.K. Basu v. State of W.B.,  
(1997) 1 SCC 416: 1997 SCC (Cri) 92.

Law—Includes an ordinance, A.K. Roy v. Union of India, (1982)  
1 SCC 271.

Free Legal Aid—State is constitutionally bound to provide free  
legal aid not only at the stage of trial but also when they are first  
produced before the magistrate or remanded from time to time,  
Khatri (II) v. State of Bihar, (1981) 1 SCC 627, 360-32; (1986) 2  
SCC 401.

Undertrial Prisoners—Handcuffing and parading of undertrial  
prisoner violated rights under Article 21, State of Maharashtra v.  
Ravi kant S. Patil, (1991) 2 SCC 373; (1995) 3 SCC 743. See  
also M.P. Dwivedi, In re, (1996) 4 SCC 152.

Rape—Violates right to live which includes right to live with  
human dignity, bodhisattwa Gautam v. Subhra, (1996) 1 SCC  
490.

Right to Privacy—Cannot prevent publication of misdeeds of  
public officials, R. Rajagopal v. State of T.N., (1994) 6 SCC 632.

Speedy Trial—Speedy trial is an essential ingredient of  
“reasonable, fair and just” procedure guaranteed by Article 21,  
Hussainara Khatoon (IV) v. Home Secretary, State of Bihar,  
(1980) 1 SCC 98