

Protection of Life & Personal Liberty (Article 21)

Articles 19-22 deal with different aspects of personal liberty (most important of all FRs)

Introduction

- Article 21 of the Constitution says that: "***No person shall be deprived of his life or personal liberty except according to procedure established by law***".
- The right guaranteed in Article 21 is available to 'citizens' as well as 'non-citizens'.
- **GOLDEN TRIANGLE** (Constituents) =Articles 14 19 and 21 are not mutually exclusive and they jointly aim at reasonableness and fairness
- A law or administrative action challenged under Article 21 has to satisfy the requirements of reasonableness and fairness guaranteed by As 19 & 14 also

In A.K. Gopalan v. State of Madras(1953)

- The petitioner A.K. Gopalan, a Communist leader, was detained under the Preventive Detention Act, 1950. The petitioner challenged the validity of the Preventive Detention Act and his detention there under on the following grounds: (1) ***that it violated his right to move freely throughout the territory of India which is the very essence of personal liberty guaranteed in Article 19(1) (d). The detention under this Act was not a reasonable detention under Cl. (5) of Art. 19 and hence the Act was void;*** (2) ***It was argued that the word 'law' in Article 21 should be understood not in the sense of an enactment but as signifying the universal principles of natural justice and a law which did not incorporate these principles could not be valid;*** (3) ***that the expression "procedure established by law" meant the same thing as the phrase "due process of law" in the American Constitution.***

In A.K. Gopalan (A.21 & A.19)

- The petitioner challenged the validity of his detention under the Act on the ground, that it was violative of his right to freedom of movement under Art. 19(1)(d) which is the very essence of personal liberty guaranteed by Art. 21 of the Constitution. ***He argued that the words “personal liberty” include the freedom of movement also and therefore the Preventive Detection Act, 1950 must also satisfy the requirement of Art. 19 (5).*** In other words, the restrictions imposed by the detention law on the freedom of movement must be reasonable under Art. 19(5) of the Constitution. ***It was argued that Art. 19(1) and Art. 21 should be read together because Art. 19(1) dealt with substantive rights and Art. 21 dealt with procedural rights. (The State under clause(5) of Article 19 impose reasonable restrictions on the freedom of movement on 2 grounds (1)in the interests of the general public (2)for the protection of the interests of the Scheduled tribes).***

In A.K. Gopalan v. State of Madras(1953)

- In *Gopalan* the Supreme Court interpreted the ‘law’ as “state made law” and rejected the plea that by the term ‘law’ in Art. 21 meant not the state made law but jus natural or the principles of natural justice.
- Supreme Court by the majority held that the *‘personal liberty’ in Art. 21 means nothing more than the liberty of the physical body, that is, freedom from arrest and detention without the authority of law.*
- *Freedom guaranteed by Art. 19 can be enjoyed by a citizen only when he is a freeman and not if his personal liberty is deprived under a valid law*

Maneka Gandhi v. Union of India(1978)

- In Maneka Gandhi v. Union of India(1978), the ***Supreme Court has not only, overruled Gopalan’s case but has widened the scope of the words ‘personal liberty’ considerably.*** *Bhagwati, J. (as he then was) observed:*
“The expression ‘personal liberty’ in Article 21 is of widest amplitude and it covers a variety of rights which go to constitute the personal liberty of man and some of them have raised to the status of distinct fundamental rights.”
- The Court lays down great stress on the procedural safeguards. *The procedure must satisfy the requirement of natural justice, i.e. it must be just, fair and reasonable.*

Maneka Gandhi v. Union of India(1978)

- The order withholding reasons for impounding the passport was therefore not only in breach of statutory provisions (Passport Act) but also in violation of the rule of natural justice embodied in the maxim “audi alteram partem”.

Although there are no positive words in the statute (Passport Act) requiring that the party shall be heard, yet the justice of the Common Law will supply this omission of Legislature.

The power conferred under Section 10(3)(c) of the Act on the passport authority to **impound a passport is a quasi-judicial power.** The rule of natural justice would therefore, be applicable in the exercise of this power. **A provision requiring of such opportunity to the affected person can and should be read by implication in the Passport Act, 1967.** If such provisions were held to be **incorporated in the Act by necessary implication, the procedure prescribed for impounding passport would be right, fair and just and would not suffer from the vice of arbitrariness or unreasonableness.**

Maneka Gandhi's case (A.21 &A.19)

- In Maneka Gandhi's case the Supreme Court has overruled the view expressed by the majority in Gopalan's case and held that **Article 21 is controlled by Art. 19, that is, it must satisfy the requirement of Art. 19 also.** *The court observed:*
- **A law depriving a person of 'personal liberty' has not only to stand the test of Art. 21 but it must stand the test of Art. 19 of the Constitution.**
- Each right holds importance, however, *there are three major fundamental rights which are given a lot of weightage, and when combined together form the Golden Triangle of Indian Constitution*

Protection from Legislative action also

- Prior to Maneka Gandhi's decision, ***Article 21 guaranteed the right to life and personal liberty to citizens only against the arbitrary action of the executive, and not from legislative action. The State could interfere with the liberty of citizens if it could support its action by a valid law.*** But after the Maneka Gandhi decision Article 21 ***now protects the right to life and personal liberty of citizen not only from the Executive action but from the Legislative action also.***

A person can be deprived of his life and personal liberty if two conditions are complied with, first, there must be a law and secondly, there must be a procedure prescribed by that law, provided that the procedure is just, fair and reasonable.

Due process

- Due process has two aspects. **Substantive due process envisages that** the substantive provisions of a law should be reasonable and not arbitrary. **Procedural due process envisages** a reasonable procedure, i.e., the person affected should have fair right of hearing which includes four elements;
- Notice
- Opportunity to be heard
- An impartial tribunal
- An orderly procedure

Due Process of Law

- **Due Process of Law = Procedure Established by Law + The procedure should be fair and just and not arbitrary.**

Other FR's recognized (implicit in A.21)

1. Right to livelihood
2. Right to live with human dignity
3. Right to health and medical assistance
4. Right to education
5. Right to free legal aid
6. Right to privacy
7. Right to pollution free environment
8. Right to speedy trial

Gang Rape on Bangladeshi woman -

• **Compensation given under Public Law**

In *Chairman, Railway Board V. Chandrima Das* (2000), the Supreme Court has held that where **a foreign national**, a Bangladeshi woman **was gangraped** **compensation can be granted under Public Law (Constitution)** for violation of fundamental rights on the ground of Domestic Jurisdiction based on constitutional provisions and Human rights jurisprudence. In this case a practising advocate of the Calcutta High Court filed a petition under Art. 226 of the Constitution against the various Railway authorities of Eastern Railway claiming compensation for the victim. Smt. Hanuffa Khatoon, a Bangladesh national was **gangraped by the employees of Railways in a room at Yatri Niwas of Howrah Station of the Eastern Railway.** The Court awarded a sum of Rs. 10 lakhs as compensation to the victim.

Compensation for violation of Art. 21

- In Rudal Shah v. State of Bihar(1983), the Supreme Court has held that the Court has power to award monetary compensation in appropriate cases where there has been violation of the constitutional right to citizens. In the present case the Supreme Court directed Bihar Government to pay “Compensation” of Rs. 30,000 to Rudal Shah who had to remain in the jail for 14 years because of the irresponsible behaviour of the State Government Officers even after his acquittal. He was acquitted by the Sessions Court on June 30, 1968 but was released from jail only on Oct. 16, 1982 when the Court intervened. Describing this state of affairs as “sordid and disturbing” the Court asked the Patna High Court to find out if there were any other detenuess suffering a fate similar to Rudal Shah. Thus it is clear from this ruling that the Court can order payment of compensation to victims of State violence.

Bhim Singh v. State of J.K (1985)

- The Court awarded a sum of Rs. 50,000 to the petitioner as compensation for the violation of his constitutional right of personal liberty under Art. 21 of the Constitution. **The petitioner an MLA was arrested and detained in police custody and deliberately prevented from attending Session of the Legislative Assembly . The police officers acted deliberately and mala fide and Magistrate and the Sub-judge aided them either by colluding with them or by their casual attitude.** When the constitutional right of personal liberty is invaded the invasion is not washed away by his being set free. In appropriate cases the Supreme Court has jurisdiction to **award monetary compensation by way of exemplary costs** or otherwise.

Justice K.S. Puttaswamy v Union of India

- In a historic decision delivered on August 24th 2017, the Bench unanimously recognised a fundamental right to privacy of every individual guaranteed by the Constitution, **within Article 21 in particular and Part III on the whole**. The decisions in *M.P. Sharma* and *Kharak Singh* were overruled.
- Since the 2017 judgment, the fundamental right to privacy has been **cited as precedent in various landmark judgments, such as the Navtej Johar (377IPC) & Joseph Shine (Adultery) judgments**

Government Steps to Protect Privacy

- **Draft Personal Data Protection Bill 2019** regulates how government and private organizations in India and overseas process the personal data of individuals. If the individual gives consent, or if there is a medical emergency, or if the state is giving benefits, the processing is permitted.
- **Committee chaired by B. N. Srikrishna**: Under the chairmanship of Justice B. N. Srikrishna, the government created a committee of experts on data protection, which submitted its report in July 2018.
- **The Information Technology Act 2000 (IT Act)** establishes protections against certain data breaches from computer systems. It includes precautions to prevent unwanted access to computer systems and data stored on them.

Mr 'X' v Hospital 'Z' (1996)

- In this case, the appellant after obtaining the degree in MBBS in 1987 joined the Nagaland State Medical and Health Service as Asst. Surgeon. A government servant was suffering from some disease. The appellant was directed by the Govt. of Nagaland to accompany the said patient to Madras for treatment. For the treatment of the disease the patient needed blood. The appellant was asked by the doctors to donate blood to the patient.

Mr 'X' v Hospital 'Z' (1996)

- When his blood samples were taken the doctors found that the appellant's blood was HIV positive . In the meantime the appellant settled his marriage with one Miss 'Y' which was to be held on Dec. 12, 1995. But the marriage was called off on the ground that the blood test of the appellant conducted by the respondent's hospital was found to be HIV (+). As a result of this, he contended that his prestige among his family members was damaged.

Mr 'X' v Hospital 'Z' (1996)

- The appellant filed a writ petition in the Court for damages against the respondents on the ground that **the information which was required to be kept secret under Medical Ethics was disclosed illegally** and therefore the respondents were liable to pay damages. He contended that **the respondents were under a duty to maintain confidentiality on account of Medical Ethics formulated by the Indian Medical Council**. He contended that **the appellant's 'right to privacy' had been infringed by the respondents by disclosing that the appellant was HIV (+), and 'therefore' they are liable in damages.**

Mr 'X' v Hospital 'Z' (1996)

- A two Judge division Bench of the Supreme Court comprising of Saghir Ahmad and Kripal, JJ., held that by disclosing that the appellant was suffering from AIDS the doctors had **not violated the right of privacy** of the appellant guaranteed by Art. 21. As such when the patient was found to be HIV (+), **the disclosure by the Doctor was not violative of either the rule of confidentiality or the patient's right to privacy as the lady with whom the patient was likely to be married was saved by such disclosure or else she too would have been infected with the dreadful disease if marriage had taken place.**

Virginity Test violates Right to privacy under Article 21

- In *Surjit Singh Thind v. Kanwaljit Kaur* (2003) the Punjab and Haryana High Court had held that medical examination of a woman for her virginity amounts to violation of her right to privacy and personal liberty enshrined under Article 21 of the Constitution.

Husband tapping conversation of his wife with others seeking to produce in Court, violates her right to privacy.

- In *Rayala M. Bhuvaneshwari v. Nagaphamender Rayala* (2008) the petitioner *filed a divorce petition in the Court against his wife and to substantiate his case sought to produce a hard disc relating to the conversation of his wife recorded with others.* She denied some portions of the conversation. *The Court held that the act of tapping by the husband of conversation of his wife with others without her knowledge was illegal and amounted to infringement of her right to privacy under Article 21 of the Constitution. These talks even if true cannot be admissible in evidence.*

Husband tapping conversation of his wife with others seeking to produce in Court, violates her right to privacy.

- The husband was recording her conversation on telephone with her friends and parents without her knowledge. *This is clear infringement of right to privacy of the wife. The Court observed that if husband is of such a nature and has no faith in his wife even about her conversations to her parents, then the institution of marriage itself becomes redundant.*

Right to privacy available to a woman of easy virtues

- In State of Maharashtra v. Madhulkar Narain(1991), *it has been held that the 'right to privacy' is available even to a woman of easy virtue and no one can invade her privacy.* A police Inspector visited the house of one Banubai in uniform and demanded to have sexual intercourse with her. On refusing he tried to have her by force. She raised a hue and cry. When he was prosecuted he told that Court that she was a lady of easy virtue. The Court rejected the argument of the respondent and held him liable for violating her right to privacy under Article 21 of the Constitution.

Personal liberty includes right of women to produce child or refuse to participate in sexual act.

- In *Suchitra Srivastava v. Chandigarh Administration*(2010), the Supreme Court has held that personal liberty in Article 21 includes the right to make reproductive choice (to produce child or not to produce).

Nand Lal v. State of Punjab(1981)

- The validity of an order of detention made under Section 3 of the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1982, was challenged on the ground that procedure adopted by Advisory Board in ***allowing legal assistance to the State but denying such assistance to the detenue, was both arbitrary and unreasonable and thus violative of Art. 21 read with Art. 14 of the Constitution.*** The Court applying the Maneka Gandhi's principle, held that the **procedure adopted by the Advisory Board was arbitrary and illegal** and consequently, the detention order was liable to be quashed. (**Although under the above Act the detenue has no right to legal assistance in the proceedings before the Advisory Board, but it does not preclude the Board to allow such assistance to the detenue when it allows the same to the State).**

Peoples Union for Democratic Rights v. Union of India(1982)

- Following Maneka Gandhi case the Supreme Court in Peoples Union for Democratic Rights v. Union of India(1982) 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.

Hawkers Right to trade on pavement of roads

- In *Sodan Singh v. New Delhi Municipal Committee* (1995), a five judge Bench of the Supreme Court has held that **hawkers have a fundamental right to carry on trade on pavement to roads, but subject to reasonable restrictions under Article 19(6) of the Constitution.** The petitioners who were poor hawkers were carrying on business on the pavements of roads of Delhi and New Delhi. They alleged that they were permitted by the respondent Municipal authorities to carry on their business by occupying a particular area on the pavements on payment of certain charges described as Tehbazari, but they refused them to continue with their trade and thereby they were violating their fundamental right guaranteed under Articles 19(1)(g) and 21 of the Constitution. The Supreme Court held- **The right to carry on trade or business mentioned in Article 19(1)(g) on pavement of roads, if properly regulated, cannot be denied on the ground that the streets are meant exclusively for passing or re-passing and for no other use.** Proper regulation is, however, a necessary condition as otherwise the very purpose of laying down roads to facilitate traffic may be defeated.

Pragati Varghare v. Cyril George Varghese(1997)

- Mumbai High Court has struck down Section 10 the Indian Divorce Act, 1969 under which a **Christian wife had to prove adultery along with cruelty or desertion while seeking a divorce on the ground that it violates the fundamental right of Christian women guaranteed under Arts. 21, 15 and 14 of the Constitution.** *The Court also struck down Section 17 of the Act which stipulated that an annulment or divorce passed by a District Court needed to be confirmed by a 3 Judge Bench of the High Court.* **The Court held Section 10 compels the wife, who has been deserted or treated with cruelty, to continue her life with a man she hates..... Such a life is sub-human.**

State of Maharashtra v. Prabhakar Pandurang(1986)

- The petitioner was detained in jail under the Preventive Detention Act. He **wrote a scientific book in prison and sought permission from the Government to send it to his wife for publication.** *The Government refused permission to him.* The Court held that this was an infringement of his personal liberty as *the restriction was not authorised by the Preventive Detention Act.*

Right to health and Medical Assistance

- In *Parmananda Katara v. Union of India* (1989), it has been held that **it is the professional obligation of all doctors, whether government or private, to extend medical aid to the injured immediately to preserve life without waiting for legal formalities to be complied with by the police under Cr.P.C. (medico-legal cases)** It is submitted that if this decision of the Court is followed, in its true spirit it would help in saving the lives of many citizens who die in accidents because **no immediate medical aid is given by the doctors on the ground that they are not authorised to treat medico-legal cases.**

Paschim Ban Keht Mazdoor Samiti v. State of W.B.(1986)

- The Supreme Court had held that *denial of medical aid by government's hospitals to an injured person on the ground of non-availability of beds amounted to violation of right to life under Art. 21 of the Constitution.* In this case, the petitioner, Hakim Singh, who was a member of an organization of agricultural labourers, had fallen from a running train and had suffered serious head injuries and brain haemorrhage. He was taken to various government hospitals in the city of Calcutta but because of non-availability of bed he was not admitted. Ultimately he was admitted in a private hospital as an indoor patient and he had to incur an expenditure of Rs. 17,000 in his treatment. The Court directed the State to pay Rs. 25,000 to the petitioner as compensation.

Punjab v. Mohinder Singh Chawla(1997)

- The Court has held that the right to life in Art. 21 of the Constitution includes the right to health and, therefore, the **Sate employees are entitled** to medical reimbursement of expenses for treatment and **room rent charges even in approved specialized hospitals outside the Government hospitals.** In this case the respondent a State employee had heart ailment which required replacement of two valves in the heart. **Since the facility of the treatment was not available in the State, permission was given by the Director, with the approval of the Medical Boards to get the treatment outside the State. He was sent for treatment in the AIIMS at New Delhi. When the bill for expenses incurred towards room was submitted the Government rejected it. It was held that the employee was entitled to reimbursement of actual room rent charges paid by him. The Government was not entitled to take the stand that the reimbursement could not be allowed as per rate charged by AIIMS.**

Arrest and detention of a judgment debtor

- In Jolly George Varghese v. Bank of Cochin(1980):- The question involved in this case was that whether a person can be imprisoned on the ground that he has failed to discharge his contractual obligations and whether such imprisonment amounts to deprivation of his personal liberty enshrined in Article 21 without fair and reasonable procedure? ***Article 11 of the International Covenant provides that “No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.”***
- It has been held that the arrest and detention of an honest judgment-debtor in civil prison, who has no means to pay the debt ***in absence of mala fide and dishonesty***, violates Article 11 of the International Covenant on Civil and Political Rights and Article 21 of the Constitution.

Free Legal Aid at trial & appellate stage

- Ramakant v. State of MP(2012) The appellant in a gang rape case convicted by the trial court preferred an appeal to the High Court but there he remained unrepresented. The High Court did not inquire the appellant whether he needed legal assistance and upheld his conviction. *The case records were remitted back to the High Court for a fresh hearing as the High Court had not provided the appellant an opportunity of obtaining legal assistance. The Court held that Legal aid is available both at trial and appellate stage*

Right against solitary confinement.

- In Sunil Batra (No. 1) v. Delhi Administration (1978), the important question raised before the Supreme Court was *whether 'solitary confinement' imposed upon prisoners was violative of Article 14, 19 and 21 of the Constitution.* In this case the two convicts who were confined in Tihar Central Jail filed two petitions under Article 32, challenging the validity of Section 30 of the Prisons Act. Sunil Batra was sentenced to death by the District and Sessions Judge.

Sunil Batra (No. 1) v. Delhi

Administration(1978)

- Batra complained that since the date of his conviction by Session Judge that was on 6th July, 1976 he was kept in solitary confinement till the Supreme Court intervened on 24th February, 1978. The Supreme Court accepted the argument of the petitioners and held that Section 30 of the Prison Act **did not empower the prison authorities to impose solitary confinement upon a prisoner-. Under Section 73 and Section 74, I.P.C., solitary confinement is itself a substantive punishment which can be imposed by a court of law.** It cannot be left within the caprice of prison authorities.

Sunil Batra (No. 2) v. Delhi Administration(1980)

- In Sunil Batra (No. 2) v. Delhi Administration(1980), it was held that the *practice of keeping undertrials with convicts in jails offends the test of reasonableness in Art. 19 and fairness in Art. 21.* The undertrials are presumably innocent until convicted and if they are kept with criminals in jail it violates the test of fairness of Art. 21.

Right to speedy trial

- In Hussainara Khatoon (No. 1) v. Home Secretary State of Bihar(1979),. Supreme Court held that **“right to a speedy trial” a fundamental right is implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution.** Speedy trial is the essence of criminal justice. In United States speedy trial is one of the constitutionally guaranteed right under the Sixth Amendment. Bhagwati, J., (as he then was) held that although, unlike the American Constitution speedy trial is not specifically enumerated as a fundamental right, **it is implicit in the broad sweep and content of Article 21 as interpreted in Maneka Gandhi’s case.**

Sunil Gupta v. State of M.P(1990)

- The petitioners were educated persons and social workers, who were remanded to judicial custody and **were taken to court from jail and back from court to the prison by the escort party handcuffed**. They had staged a 'dharna' for a public cause and voluntarily submitted themselves for arrest. **They had no tendency to escape from the jail. In fact, they even refused to come out on bail but chose to continue in prison in support of the public cause.** It was held that this act of the escort party was violative of Art. 21 of the Constitution. There was no reason recorded by the escort party in writing for this inhuman act. **The Court directed the Government to take appropriate action against the erring escort party for having unjustly and unreasonably hand-cuffed the petitioners.**

Conversion of death sentence into life imprisonment

- In *Triveni Ben v. State of Gujarat* (1989), a five judge Bench of the Supreme Court has held that **undue long delay in execution of the death sentence will entitle the condemned person to approach the Court for conversion of death sentence into life imprisonment**, but before doing so the Court will examine the nature of delay and circumstances of the case. **No. fixed period of delay could be held to make the sentence of death inexecutable.** In the present case the death penalty of the accused was converted into life imprisonment.

Madhu Mehta v. Union of India(1989)

- The mercy petition of the petitioner who was sentenced to death was pending before the President of India for about 9 years. This matter was brought to the notice of the Court by one Madhu Mehta, the National Convenor of Hindustani Andolan. **Following Triveniben's decision the Court directed the death sentence to be commuted to life imprisonment** as there were no sufficient reasons to justify such a long delay in disposal of the convict's mercy petition.

Right of members of protective homes

- In *Vikram Deo Singh Tomar v. State of Bihar* (1988), through a public interest litigation it was brought to the notice of the Court that *the female inmates of the 'Care Home Patna' were compelled to live in inhuman conditions in an old ruined building.* They are provided insufficient and poor quality of food, and no medical attention is afforded to them. The Supreme Court held that *'the right to live with human dignity'* is the fundamental right of every citizen and *the State is under duty to provide at least the minimum conditions ensuring human dignity.* Accordingly, the Court directed the State to take immediate steps for the welfare of inmates of 'Care Home Patna'. Pending construction of new building, the Court directed that the existing building must be renovated and sufficient amenities by way of living rooms, bath rooms and toilets within the building and adequate water and electricity etc., must be provided. *The Court also directed the State to appoint a full time superintendent to take care of the home and to ensure that a doctor visits the home daily.*

Right to die

- The question whether the right to die is included in Art. 21 of the Constitution came for consideration for the first time before the Bombay High Court in **State of Maharashtra v. Maruty Sripati Dubal(1987)**. The Bombay High Court held that the right to life guaranteed by Art. 21 includes a right to die, and consequently **the court struck down Section 309, IPC which provides punishment for attempt to commit suicide by a person as unconstitutional.**

Chenna Jagadeeswar v. State of A.P(1988)

- On the other hand, the Andhra Pradesh High Court in **Chenna Jagadeeswar v. State of A.P(1988).**, held that the right to die is not a fundamental right within the meaning of Art. 21 and ***hence Section 309, I.P.C. is not unconstitutional.***

P. Rathinam v. Union of India(1994)

- a Division Bench of the Supreme Court comprising Mr. Justice R.M. Sahai and Mr. Justice Hansaria agreeing with the view of the Bombay High Court in Maruti Sripati Dubal case ***held that a person has a “right to die” and declared Section 309 of the Indian Penal Code unconstitutional which makes “attempt to commit suicide” a penal offence.*** The “right to live” in Art. 21 of the Constitution includes the “right not to live”, i.e., right to die or to terminate one’s life.

Gian Kaur v. State of Punjab(1996)

- In Gian Kaur v. State of Punjab(1996) a five judge Constitution Bench of the Supreme Court has not only overruled the P. Rathinam's case and, rightly, held *that "right to life" under Art. 21 of the Constitution does not include "right to die" or "right to be killed".*
- *The Court accordingly held that Section 309 of IPC is not violative of Art. 21 of the Constitution*

Protection of Ecology and Environmental Pollution

- In Rural Litigation and Entitlement Kendra v. State of U.P(1985)., ***the Court ordered the closure of certain lime stone quarries.*** The Court had appointed a committee for the purpose of inspecting certain lime stone-quarries. The Committee had suggested the closure of certain categories of stone quarries having regard to adverse impact of mining operations therein. A large scale pollution was caused by lime stone quarries adversely affecting the safety and health of the people living in the area.

Shiram Food and Fertilizer case(1986)

- The Supreme Court directed the company manufacturing hazardous and lethal chemicals and gases posing danger to health and life of workmen and people living in its neighbourhood, to take all necessary safety measures before reopening the plant. *There was a leakage of Chlorine gas from the plant resulting in death of one person and causing hardships to workers and residents of the locality.* This was due to the negligence of the management in maintenance and operation of the caustic chlorine plant of the Company.

Shiram Food and Fertilizer case(1986)

- The matter was brought before the Court through a public interest litigation. **The management was directed to deposit a sum of Rs. 20 lakhs by way of security for payment of compensation claims of the victims of Oleum gas leak with the Registrar of the Court. In addition, a bank guarantee with a sum of Rs. 15 lakhs was also directed to be deposited which shall be encashed in case of any escape of Chlorine gas within a period of three years from the date of the judgment resulting in death or injury to any workman or any person living in the vicinity.** Subject to these conditions the Court allowed the partial reopening of the plant.

M.C. Mehta v. Union of India (1996)

- In M.C. Mehta v. Union of India (1996) the Supreme Court ordered the shifting of 168 hazardous industries operating in Delhi as they were causing danger to the ecology. The Court directed these industries to close down w.e.f. 30.11.1996. The Court gave necessary specific directions for the protection of the rights and benefits of the workmen employed in these industries.

Right to education

- In Mohini Jain v. State of Karnataka(1987), popularly known as the “Capitation Fee case” the Supreme Court has held that the right to education is a fundamental right under Article 21 of the Constitution which cannot be denied to a citizen by charging higher fee known as the capitation fee.
The right to education flows directly from right to life. The right to life under article 21 and the dignity of the individual cannot be assured unless it is accompanied by right to education.

Unni Krishnan v. State of A.P.(1993)

- The Supreme Court was asked to examine the correctness of the decision given by the Court in Mohini Jain's case. **The petitioners running Medical and Engineering Colleges in the State of Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu** contended that if Mohini Jain decision is followed by the respective State Government they will have to close down their colleges. The five Judge bench by 3-2 majority **partly agreed with the Mohini Jain** decision and held that right to education is a fundamental right under Article 21 of the Constitution as 'it directly flows' from right to life. But as regards its content the **Court partly overruled the Mohini Jain's case and held that the right to free education is available only to children until they complete the age of 14 years, but after that the obligation of the State to provide education is subject to the limits of its economic capacity and development.**