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EVOLVING CONTOURS OF ARTICLE 21: RIGHT TO WALK AND ROAD SAFETY IN INDIA

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ABSTRACT

Article 21 of the Indian Constitution has evolved, especially with reference to the rise of the Right to Walk as a fundamental right under the Indian Constitution. The right to life under Article 21 has come a long way since the landmark judgment in *Maneka Gandhi v. Union of India (1978).* When the right was limited to mere survival to a comprehensive freedom to life with dignity. This growth has opened the way to acknowledge derivative rights that are vital to living decently. One such new dimension is "pedestrian safety" and the "right to safe mobility". In India, there is a severe problem of road safety, with pedestrians being one of the most vulnerable groups on the road. Although pedestrian safety is constitutionally guaranteed and addressed in legislation, it is poorly addressed in policy and planning.

This paper examines whether it is possible to define the Right to Walk as a distinct component of Article 21, what constitutional duties it places on the State, and how constitutional jurisprudence can enhance the governance aspects of road safety. Taking a doctrinal approach, it examines case law and comparative constitutionalism to show that the Right to Walk is a logical development of the jurisprudence of Article 21. It establishes the relationship between personal freedom and structural accessibility, between personal rights and structural requirements for the exercise thereof. The paper explores the constitutional foundation, as per Articles 14, 19(1)(d), 21, and the Directive Principles, and looks at judicial recognition in recent orders.

Keywords: Article 21, Right to Walk, Constitutional Law, Fundamental Rights, Dignity, Accessibility.

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I. INTRODUCTION

1.1 Evolution of Article 21

Article 21 of the Indian Constitution says: "No person shall be deprived of his life or personal liberty except in accordance with procedure established by law. When it was adopted, this restriction was understood to apply only to the biological right to life and the physical freedom of the individual. In the case of *A.K. Gopalan v. State of Madras*[3], The Supreme Court limited its scope to the issue of procedural propriety of the State action, stating that Article 21 is a procedural safeguard against arbitrary deprivation. But, with the landmark judgment in *Maneka Gandhi v. Union of India*, the judicial understanding changed. The Supreme Court has extended the right to life beyond just survival and believes all the elements of life that make it worth the person's while are within the fold of the right to life. From here on, Article 21 was to be a constitutional corridor to acknowledge a variety of rights which are vital for a dignified human life. The Court noted that 'life' has a meaning that is more than just physiological survival and that it has the right to live with human dignity. In its broad sense, this interpretation has been extended to give rise to the concept of various derivative rights, such as the right to health, right to education, right to livelihood, the right to shelter, right to a clean environment, right to privacy, and right to a speedy trial.[4]. All these rights are based on the principle that the State is not only obligated not to deprive an individual of his or her rights arbitrarily, but that the State must take steps to provide a context in which a person can flourish.

1.2 Background of the Study

Road traffic accidents are a serious problem in India. World Health Organisation (WHO) data indicates that road traffic accidents (RTAs) are the 8th leading cause of death worldwide, and the primary cause of death for the age group 5-29 years. More than 150,000 people die every year in India in road accidents, and hundreds of thousands are injured and rendered permanently disabled. Pedestrians make up a high proportion of such fatalities, especially in urban areas where poor infrastructure for walking increases pedestrian vulnerability. But pedestrians have been largely neglected in policy prioritization, although they are one of the most vulnerable road users. The past has been one of roads and urban structures oriented around the movements of cars rather than pedestrian safety. The footpaths are frequently

[3] AIR 1950 SC 27
[4] Ibid

being used for commercial purposes, for informal settlements, or for parking. Poorly marked and poorly maintained pedestrian crossings. There is very little universal access for persons with disabilities. These structural failures are despite constitutional rights for equality and life with dignity. At the same time, more and more judges have begun to appreciate the connection between constitutional rights and real-life experiences. Courts have started to recognise that the right to life, liberty, and equality cannot be enjoyed without the availability of safe and accessible public spaces. This recognition, coupled with the rising urbanization and the rising death toll of pedestrians, has built the foundation for a constitutional and practical articulation of a Right to Walk.

A paradox of the Indian Constitution and law is that fundamental rights to life, liberty, equality and freedom of movement have been guaranteed, but their meaningful realization is reliant on safe and accessible public spaces—especially for walking. However, pedestrian safety is not a constitutional issue but an administrative or policy matter. The 1988 Motor Vehicles Act, which was amended in 2019, has provisions that relate to road safety, but does not have a constitutional base. Pedestrian-specific rights are not clearly expressed. The interpretation of statute and not the Constitution has been the central point of courts' intervention in the form of public interest litigation. This leads to disjointed and inconsistent safeguards: protection that is dependent on judicial activism, not constitutional governance. Furthermore, it is noted that the Constitution does not explicitly recognise the rights of pedestrians as a separate category which is worthy of protection under the Constitution. India, unlike some other international jurisdictions, has not given rise to a comprehensive framework of rights for pedestrians as subjects, in contrast to being only one of the vulnerable groups that needs charity-based protection.

II. EVOLUTION OF ARTICLE 21: EXPANDING DIMENSIONS OF THE RIGHT TO LIFE

2.1 Original Interpretation of Article 21

Article 21 of the Indian Constitution was intended to act as a ‘procedural safeguard' against arbitrary State action when the Constitution was adopted in 1950. In keeping with International human rights ideals and the due process tradition, constitutional framers added a clause to protect against deprivation of life and liberty “except according to procedure established by law.” Such a philosophy was expressed in this language: the State has the

right, as long as it acts in a proper manner, to legitimately limit life and liberty. This restriction was confirmed by the Supreme Court in *A.K. Gopalan vs State of Madras*[5]. The petitioner attacked the validity of preventive detention laws, saying this infringed Article 21. The Court explained that the term "procedure established by law" meant the procedure followed by the State was “procedural” and not “substantive” in nature as per Indian domestic law. Whether or not the substance of a law was valid, the existence of a procedure prescribed by it and if the State observed it, was sufficient to satisfy Article 21. The implications of this interpretation were grave: so could run a law to restrict life and liberty if there was a procedure for it. The right became a procedural right, and not a substantive one. Article 21 did not encompass substantive rights, which include the right to be free from arbitrary or unreasonable restrictions.

2.2 Judicial Transformation after Maneka Gandhi

The turning point in the jurisprudence of Article 21 was *Maneka Gandhi v. Union of India.*[6] . A political activist, Maneka Gandhi, opposed the government's action of seizing her passport. The government action was justified on the basis of the Passport Act, which gave the government discretion to impound passports. The government, technically, had adhered with a straight face to the procedure laid down by law, according to the interpretation of A.K.Gopalan. However, Article 21 has been given a completely different meaning by the Supreme Court. In the opinion of the Court, Justice P.N. Bhagwati found that the phrase "procedure established by law" now has to be understood in the American constitutional usage to include substantive reasonableness, fairness, and proportionality. The 'procedure established by law' should be 'just, fair and reasonable, not unjust, unfair or unreasonable', the Court said. Furthermore, the Court stated that the term "life" is not limited to just being a living animal: "Life' is more than the mere animal existence, it is the 'bear necessities of life' including 'adequate nutrition, clothing and shelter, and facilities for reading, writing and expressing oneself in various forms'.[7] This declaration paved the way towards the constitution's interpretation of a wide array of rights. The Court also found that liberty does not necessarily relate to freedom from physical or bodily restraint but is also described as civil, political and economic freedom. This added to Article 21, making it a substantive guarantee of fundamental elements of human life and human dignity, rather than just a procedural guarantee.

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[5] Ibid
[6] Supra note1
[7] Supra note 1

2.3 Emergence of Derivative Rights under Article 21

After Maneka Gandhi, Indian courts have identified multiple rights as being derivative of, or part of, Article 21: Right to Health: The Supreme Court has declared that the right to health is a part of the right to life. In *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*[8], The Court reiterated its responsibility of the State to provide healthcare facilities. In *Jacob Mathew v. State of Punjab*[9], The Court had held that the obligation to provide medical care arises out of Article 21. In *Olga Tellis v. Bombay Municipal Corporation*, the Court decided that the right to livelihood is a part of the right to life, and that forcefully displacing individuals from slums without providing alternative resettlements is a violation of Article 21[10]. This recognition connected survival with productive economic participation. Right to Shelter: The Court has acknowledged shelter as a part of a decent way of life. In *Chameli Singh v. State of Uttar Pradesh,* the Court ruled that the right to life with dignity also extends to the right to shelter and that homelessness is a violation of constitutional guarantees.[11]. The Supreme Court in the case of *Subhash Kumar vs State of Bihar* declared pollution as a violation of the right to life and a clean and healthy environment as essential for the enjoyment of life and liberty.[12]. In *K.S. Puttaswamy v. Union of India*, the Supreme Court has held that the right to privacy is a constitutional right under Article 21 of the Constitution of India, which includes three aspects: bodily integrity, informational privacy, and decision-making autonomy.[13]. Article 21A was added to confer education as a fundamental right, based on the judgment of the court that education is necessary to create a meaningful life and a meaningful liberty. Right to Speedy Trial: The Court said that where the delay of the trial is not reasonable, it amounts to cruel punishment and uncertainty for the accused persons and hence violates Article 21. In some cases, courts have found that the right to rest and sleep is an aspect of a person's right to a dignified living under Article 21. All of these recognitions have the same message: Article 21 guarantees living conditions for living a dignified life with autonomy and full participation in society.

This shows the basic transformation in the interpretation of the Constitution of the State as observed in the evolution of Article 21. The transformation of the constitutional interpretation

[8] AIR 1996 SC 2426
[9] AIR 2005 SC 3180
[10] AIR 1986 SC 180
[11] AIR 1995 SC
[12] AIR 1991 SC 420
[13] AIR 2018 SC 1841

is evident in the evolution of Article 21. A narrow procedural safeguard has grown to become a strong protection for dignified human existence. The basic idea is that basic rights can't be expressed as abstract rights without considering real situations. The rights to life and freedom of movement have significance only when enjoyed in safe, accessible, and dignified surroundings. This change establishes a constitutional basis for the Right to Walk. Pedestrian mobility is not a nice-to-have or an administrative matter. It is a prerequisite to the enjoyment of many protected rights such as the right to work, the right to education, the right to democratic and social life, and the right to live with dignity. The reality of exercising constitutional rights is seriously reduced if pedestrians are not safe and footpaths are not accessible.

III. RIGHT TO WALK: AN EMERGING CONSTITUTIONAL RIGHT

3.1 Concept of the Right to Walk

The Right to Walk, in its basic sense, is the right of everyone to walk safely in public spaces. It covers multiple aspects, including: Physical Safety: The right to walk without fear of harm from cars or other hazards in the environment. This includes the presence of safe infrastructure, including footpaths, pedestrian crossing infrastructure, and traffic calming infrastructure. Accessibility: the right to move around in public spaces without considering age, ability, or physical capacity. Accessibility is a matter of universal design principles and barrier-free infrastructure for persons with disabilities, the elderly, and young children. Infrastructural Provision: A positive obligation of the State to provide pedestrian infrastructure as a public good and not to assume that walking is to be left as a last resort after vehicle provision. Social Dignity: Right to use public space without social marginalisation or exclusion. This dimension ensures that pedestrians are not discriminated against or treated as secondary to cars. Equitable Access: Right to safe walking everywhere, in all cities and towns; in wealthier and economically disadvantaged communities, without political or property value considerations. The Right to Walk is essentially a concern with the prerequisites to human mobility and social participation. It acknowledges the importance of being able to walk safely and comfortably through public spaces in the course of most economic, social, and democratic endeavours.

3.2 Pedestrian Rights and Human Dignity

Human dignity and pedestrian safety go hand in hand. Human dignity, a constitutional value in Indian jurisprudence, means recognition and respect, which means the State should treat

him as a subject deserving protection and consideration, and not merely as a traffic that needs to be managed. If a pedestrian is not included in the planning of the policies and becomes an obstacle to the traffic flow, then their dignity is in question. Equality & Non-Discrimination: Pedestrian infrastructure should be equally available to all areas and communities. The presence of footpaths in affluent areas and not in lower-income areas is a violation of the concept of equality as guaranteed under Article 14. Walking is a way of being free, of being able to move around in public spaces without being restricted or put at risk. The freedom of movement enshrined in Article 19(1)(d) is an empty right unless it can be exercised safely. Autonomy is linked to the ability to take autonomous decisions regarding mobility, destination, and utilisation of places. Poor infrastructure reduces the autonomy of pedestrians in situations where they must go around it on their own in a dangerous manner. Safe access to public spaces is essential for participation in social, economic, and political life. Students are not able to go to school if the path is dangerous, workers are not able to get to work, and citizens are not able to participate in democratic processes if pedestrian safety is compromised. The right to walk then becomes a constitutional right connecting individual freedom and material circumstances. It acknowledges the importance of fundamental rights not only as limitations on the State but as positively conferred rights on the individual, which the State must act on to promote the necessary conditions.

3.3 Judicial Recognition of the Right to Walk

In Maniyar Iliyaz @ Shaik Riyaz v. P. Ayyappan & Ors., the Supreme Court of India issued a historic ruling stating that the freedom to walk on clearly marked, safe pathways is a fundamental right. Increase in Pedestrian Deaths: Data indicate a catastrophic rise in pedestrian vulnerability, underscoring the urgency. Between 2015 and 2024, pedestrian fatalities increased by over 163%, and their share of all traffic fatalities more than doubled from 9.5% to 20.61%. Constitutional Basis: In addition to embodying expressive, congregational, and associational rights under Articles 19(1)(a), 19(1)(b), and 19(1)(c), when read in conjunction with the right to life under Article 21, the right to walk is an essential component of the right to free movement guaranteed under Article 19(1)(d).

Absolute Priority over Vehicles: The Court ruled that although the freedom to walk is subject to reasonable limitations, pedestrians' right to utilize designated walkways supersedes motorized vehicles' movement and rights, and drivers cannot monopolize public areas. Enforceable Correlative Duty: Public entities, particularly Urban Development Authorities, Municipal Corporations, Municipalities, and Panchayats, are legally obligated to designate,

build, and maintain safe walkways for pedestrians just by virtue of the presence of a road. In addition to the financial remedies provided by the Motor Vehicles Act of 1988, citizens now have the ability to use restitutionary constitutional and legal remedies against these duty-bearers for failing to provide safe walkways.

The Motor Vehicles Act of 1988 was criticized by the Apex Court for undermining the rights of walkers by making the "vehicle" the major issue and treating pedestrian and human interests as incidental.

The Court emphasized the necessity of contemporary institutional governance and called for the creation of specific legislation as well as an independent, full-time regulatory body with subject-matter knowledge to safeguard and plan for pedestrian rights. Suo Motu Intervention: In order to establish the required legal framework and designate duty-bearers, the Court ordered its Registry to submit the ruling to the Law Commission of India and important ministries, such as Housing and Urban Affairs, Rural Development, and Road Transport and Highways.

The Court recognized that for economically disadvantaged people, walking is frequently the most important means of transportation. In *S. Jagannath v. Union of India (1997)*[14], in response to the petitioner's request to remove hawkers from footpaths, the Supreme Court had recognised the fact that the footpaths have several uses and that no pedestrian's right can be frustrated based on arbitrary prohibitions. Accessibility Requirements: High Courts in a few PIs have ordered the implementation of accessibility guidelines for the disabled. In a series of orders, the Delhi High Court has directed the provision of barrier-free access to the planning of cities and pedestrian-friendly infrastructure. Road Safety and Constitutional Obligation: Courts have started to state that in the context of road accidents and unsafe roads, the State has an obligation to maintain the roads safely. In various judgments, the Supreme Court has noted that "the administration is constitutionally bound to protect the life and property of citizens. Juvenile Rights: The Bombay High Court has held that the right of children to safe routes to school is an integral part of the right to education. Pedestrian Space: Cases that have upheld the right to clean air and freedom from pollution have established that pedestrian areas need to be pollution-free and safe. Pedestrian dignity in public places: The Supreme Court's ruling in K.S. Puttaswamy v. Union of India (2017)[15] has further implications on pedestrian dignity in public places, which in turn implies that the use of public space ought not to be subjected to harassment or surveillance by others.

[14] AIR 1997 SC 811
[15] Supra 12

3.4 Constitutional Basis

There are several possible constitutional bases for the Right to Walk: Article 14 (Equality): Safe pedestrian infrastructure must be equally provided to all citizens. Safe footpaths in some places but not others are discriminatory and breach the guarantee of equality. Article 14 also suggests substantive equality, which means that the State must take positive measures to make public places accessible to everyone, irrespective of their disability or age. Article 19(1)(d) (Freedom of Movement) expressly provides for freedom of movement within the territory of India. This right is not of any substance if the physical circumstances for movement are not safe. The right cannot be abridged unless on the basis of the grounds mentioned in Art 19(5). Pedestrian conditions on the streets are sufficient to impede movement without the need for legal restrictions. The right to a safe and dignified life means safe mobility, as discussed in Article 21. The right to life includes the conditions of living. It is impossible to live with dignity while walking for fear of being injured by traffic. Article 39 (equal protection of the law and providing means of livelihood), Article 46 (to protect weaker sections of the society), and Article 48A (to protect and preserve environment) all lend support to the obligations of pedestrian safety. Safe public space is a component of the fundamental duties laid down in Article 51A(e) which mandates citizens to ensure "promote harmony and the spirit of common brotherhood amongst all people of India" which includes respecting the rights of others to have safe public spaces.

IV CONCLUSION

The movement of Article 21 from A.K. Gopalan to Maneka Gandhi and onwards is one of the biggest in the history of Indian constitutional law. Over the years, the Supreme Court has interpreted the right to life as being more than just the right to live. To be meaningful and to have dignity, life must be lived in a safe, accessible, and respectful environment. This jurisprudence is now taking its next logical step by acknowledging the Right to Walk. Walking is not only a mode of transport for people who cannot afford to transport themselves by car or motorcycle. It is a basic human activity that is required for a person's engagement in economic, social, political, and cultural activities. Virtually every other human right depends on having the freedom to move safely through public spaces unaccompanied: The right to work, to learn, to vote, to attend public services such as hospitals. However, in today's India, millions of people are exposed to threats to their life and safety on a daily basis as walkers on a street. But in today's India, millions of people are being exposed to the threat of losing their life and safety as they walk daily on the street. More than 150,000 die on the roads each year.

Millions more are injured to a degree that results in permanent disability. This killing isn't in the cards. It is a consequence of specific policy decisions: emphasizing the safety of vehicles over pedestrians; designing roads for mobility rather than safety; spending money on the capacity of roads and highways but not on pedestrian infrastructure; and accepting death as a price of mobility. Such policy decisions are subject to modification. The building blocks of the constitution are already in place. Together, the three articles (14, 19(1)(d), 21) provide a strong mechanism to support pedestrian rights. The State Responsibilities in the Directive Principles include the responsibility to safeguard the vulnerable. The rule of law principle calls for the development by the State of orderly systems to ensure that citizens can exercise their rights in a safe manner. Nowadays, it is necessary to acknowledge and enforce clearly. The Right to Walk must be deemed a constitutional right and therefore imposes State obligations. Legislatures need to pass legislation that incorporates pedestrian rights and sets enforceable standards. Executives need to invest in resources and capacity to develop a city safely for pedestrians. Safe pedestrian mobility is possible, as shown by international experience. In the UK, the Netherlands, Sweden, and elsewhere, urban spaces have been designed to make walking safe, comfortable, and dignified. The principles are key points that can be shared with India, although the context is different in every country: hierarchy of vulnerable users, universal design, approaches to Vision Zero, and adequate investments. The Indian Constitution's promise of the dignity of man is as strong as that of any democratic country. What is left is the resolve to turn that building into a reality on urban streets and roads for all citizens. The shift to conceptualizing pedestrian safety as a constitutional right, instead of an administrative matter, alters the nature of the issue. It brings pedestrian rights from the realm of charity and expertise to that of justice and enforceability. Recognizes that it cannot be possible to have a dignified life, a meaningful liberty, and substantive equality if you walk in fear of being injured by traffic. This right is a long road and needs continued effort to achieve. However, it's not just a good idea: safe, walkable, and accessible cities where everyone, no matter their age, ability or economic status, can move freely and safely are not just desirable. It's required by the constitution. It is demanded by the evolution of Article 21. It's imperative and demanded by the constitutional values of equality, liberty, and dignity. Most importantly, it is the need of the 150 million people who are pedestrians on the roadways of India every day. It is time for the Indian Constitution to recognize and safeguard the Right to Walk.