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Q11

" The Construction of India is a living instrument with capabilities of enormous dynamism. It is a constitution made for a progressive society". Illustrate with special reference to the expanding horizons of the right to life and personal liberty.

UPSC Civil Services Mains 2023 · GS II · 15 marks · Indian Constitution

Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Core demand of the question

- The Constitution of India is a living instrument with enormous dynamism, made for a progressive society
- Illustrate this with special reference to the expanding horizons of the right to life and personal liberty

Revision summary

A living Constitution applies open-textured rights to new social facts.

Maneka Gandhi (1978) required fair, just and reasonable procedure and linked **Articles 14, 19 and 21**.

Francis Coralie Mullin (1981) read life as dignity, not animal existence.

Olga Tellis (1985) read livelihood into **Article 21**.

Puttaswamy (2017), **Navtej Singh Johar (2018)** and **Joseph Shine (2018)** extended privacy, sexual orientation and women's equal dignity.

Dynamism is interpretation plus amendment, bounded by basic structure and proportionality.

Introduction

A living Constitution is one whose text is applied to new facts by interpretation, amendment, and judicial review, not frozen in 1950 meanings. **Article 21** is the clearest illustration: "life" and "personal liberty" have been read as dignity, livelihood, privacy, and bodily autonomy for a society that the framers called progressive.

Body**Living instrument**

- The amending power in **Article 368**, the Directive Principles, and the open texture of Part III let later generations answer problems the Constituent Assembly did not name.
- **Kesavananda Bharati** preserved a basic structure so that dynamism does not mean destruction of the Constitution's identity.
- Progressive society in this setting means a society that can enlarge liberty and equality without waiting for a new Constituent Assembly on every social question.

From A.K. Gopalan to Maneka Gandhi

- Early reading in *A.K. Gopalan v. State of Madras* treated **Article 21** as a separate silo: any procedure established by law was enough.
- *Maneka Gandhi v. Union of India* (1978) held that the procedure must be fair, just and reasonable, and that **Articles 14, 19 and 21** are to be read together.
- That single shift turned **Article 21** into a due-process style guarantee and opened the later catalogue of unenumerated rights.

Dignity, livelihood and the material conditions of life

- *Francis Coralie Mullin v. Administrator, Union Territory of Delhi* (1981) held that life is not mere animal existence; it includes the right to live with human dignity, and in a prisoner's case that meant humane conditions and legal aid.
- *Olga Tellis v. Bombay Municipal Corporation* (1985) held that the right to livelihood is part of the right to life, because no person can live without the means of living; eviction of pavement dwellers had to follow a fair procedure.
- Later public-health and environment benches (for example *Parmanand Katara* on emergency care and the *Oleum gas / precautionary line*) extended life to health and a habitable environment, which a 1950 draft had not listed as separate Articles.

Privacy, intimacy and equal liberty

- *Justice K.S. Puttaswamy v. Union of India* (2017) held that the right to privacy is protected under **Article 21** (and the liberty cluster of Part III), including informational privacy and decisional autonomy.
- *Navtej Singh Johar v. Union of India* (2018) read down **Section 377** of the Indian Penal Code for consensual adult same-sex relations, grounding sexual orientation in dignity, equality and privacy under **Articles 14, 15, 19 and 21**.
- *Joseph Shine v. Union of India* (2018) struck down **Section 497** of the Indian Penal Code on adultery as a denial of women's dignity and equality, again using the **Article 21** cluster with **Articles 14 and 15**.
- *Common Cause v. Union of India* (2018) recognised a living will and passive euthanasia as part of dignity in dying, which is dynamism at the end of life, not only at its start.

What the illustration does not mean

- **Expansion is not unlimited:** Puttaswamy itself accepted reasonable restrictions and a proportionality test.
- Parliament can still amend, and the Court can still err; a living Constitution is a method, not a claim that every desired policy is already inside **Article 21**.

Flow diagram

Article 21 life and personal liberty -> Maneka fair procedure
 Maneka fair procedure -> Francis Coralie dignity
 Maneka fair procedure -> Olga Tellis livelihood
 Maneka fair procedure -> Puttaswamy privacy
 Puttaswamy privacy -> Navtej Joseph Shine

Conclusion

Article 21 shows the Constitution as a living instrument because Maneka **Gandhi** opened fairness, Francis Coralie and Olga Tellis opened dignity and livelihood, and Puttaswamy, Navtej Singh Johar and Joseph Shine opened privacy and equal intimacy. That expansion is how a 1950 text governs a progressive society without rewriting the whole charter for each generation.

Facts & figures

Maneka Gandhi v. Union of India (1978)

Passport impoundment case; procedure under **Article 21** must be fair, just and reasonable.

Francis Coralie Mullin (1981)

Held that the right to life includes human dignity and humane conditions of detention.

Olga Tellis v. BMC (1985)

Held that the right to livelihood is part of the right to life of pavement dwellers facing eviction.

K.S. Puttaswamy (2017)

Nine-judge Bench held privacy to be a fundamental right rooted in **Article 21** and Part III.

Navtej Singh Johar (2018) and Joseph Shine (2018)

Read down **Section 377** for consensual adults, and struck down the adultery offence, using dignity, equality and privacy.

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