

VOLUME X

ISSUE-IV (OCT-DEC 2024)



# QUEST

A Quarterly Journal of the Students published  
by the Indian Institute of Legal Studies

## INDIAN INSTITUTE OF LEGAL STUDIES

UG & Post Graduate Advanced Research Studies in Law

Approved under Section 2(f) & 12B of the UGC Act, 1956

Accredited by NAAC

Affiliated to the University of North Bengal

Recognized by the Bar Council of India, New Delhi

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## **THE STUDENT JOURNAL**

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## MESSAGE

### FROM FOUNDER & CHAIRMAN'S DESK



**SHRI JOYJIT CHOUDHURY**

**Founder & Chairman  
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It's been quite some time that I have used my prerogative for penning in a few lines under the Caption "From the desk of the Chairman." The pandemic has Pandemic has probably changed the preferred and known rules in education and it is disheartening to see the once buzzing campuses filled with vibrant and youthful energy being bereft of the exuberance that existed.

If we take a look at the history of the Corona Virus, it originated sometime in the middle of December, 2019 in China at a live seafood market and then spread to the Wuhan area. Gradually, it spread to Italy, U.S.A., Europe and other countries of the world. The affected countries

have been called to take immediate steps to detect, treat and reduce the further spread of the virus to save lives of the people. Presently the COVID-19 is no more confined to China, Italy or U.S.A. It has become a global issue. The economic impact has had devastating and cascading effect world- wide with closure of business entities, rampant job loss coupled with non-existent economic activities putting the lives and the livelihood of a large section of the world's population in peril.

The poor vulnerable daily wage earners and migrant workers are the ones who are worst affected. Concrete measures must be adopted by the governments to provide this section of the population with sustainability incomes or else the world shall witness an increase in the pre-existing inequalities. The Governments must strengthen social protection and livelihood, reorient public finance to augment human capabilities, introduce measures to limit bankruptcies and create new sources of job creation.

To my view, the Pandemic has caused a dramatic and perceived change in the socio-economic structure of the entire world. Millions of wage-earners in the United States have been bugged of leaving their current employment and demanding higher wages and they have chosen to be unemployed if wages are not commensurate with their expectations. This is probably the outcome as to how the pandemic has led to increased inequality and unequal income distribution amongst different

classes. According to Oxfam's "The inequality virus" report in the Indian context, India's billionaires increased their wealth by 35 percent while 25 per cent of the population earned just Rs. 3000 as income per month. The unforeseen and unpredictable nature of the mutant waves have caused immense distortions in the labour market which has exposed the migrant labourers to the destitution of low incomes at their native places or starvation at their outstation job sites.

Research based data shall illuminate us about the devastation caused by cyclical mutant waves in the times to come but in the meantime, we have no choice other than to maintain status quo till the pandemic subsides. It is heartening to see that in spite of closure of many educational institutions, the editorial team has put in their honest efforts to publish the journal in such antagonizing and unprecedented times. I sincerely laud and appreciate their endeavors in making this happen. Wish everybody good luck & health.

A handwritten signature in dark ink, appearing to read "J. Choudhury", with a horizontal line drawn underneath it.

**JOYJIT CHOUDHURY**

## MESSAGE

### FROM PRINCIPAL'S DESK



I would like to convey my sincere thanks and congratulate the “Quest Editorial Board” and its contributors for their ethos and time. I believe that this edition will enrich the readers for enhancing their knowledge. In the journey of ‘Quest’ the tireless work of students, teachers and other contributors are appreciated. This edition will focus on the mind of the readers and its reflection spread around the society.

I would also like to thank the students and teachers who have shared their ideas, views, emotions, and expressions for fruitful completion of the journey of “Quest” (this edition), and I hope it will continue in future also. It also serves the purpose of Indian Institute of Legal Studies for which it is meant.



A handwritten signature in black ink, reading "Trishna Gurung". The signature is written in a cursive style with a large, stylized 'T' and 'G'.

**Dr. Trishna Gurung**

Principal-in-charge,  
Indian Institute of Legal Studies

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# LONG ARTICLE



# SHATTERED INNOCENCE: UNVEILING THE RISE OF CHILD SUICIDES IN INDIA



- Rahul Chakraborty & Priyabrata Saha<sup>1</sup>

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## ABSTRACT

*India is grappling with a disturbing surge in child suicide rates, a crisis that exposes deep-rooted societal, psychological, and systemic issues. This article explores the multifaceted causes behind the alarming trend, which has turned into a public health emergency. The pressures of India's highly competitive education system place immense academic stress on children, leading to anxiety, depression, and hopelessness.*

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*Parental expectations further exacerbate these stressors, often leaving children feeling overwhelmed and isolated. Social media has emerged as a double-edged sword, contributing to both connection and alienation. The rise of cyberbullying, the pursuit of unrealistic ideals, and the need for constant validation can compound feelings of inadequacy among young people. In addition, the stigma around mental health in India remains a major barrier to children seeking help, especially in rural areas where mental health services are limited or non-existent.*

*The article also delves into the role of socio-economic factors—poverty, family breakdowns, domestic violence, and substance abuse—all of which contribute to emotional instability and increase suicide risk. Although, India has initiated steps to improve mental health awareness, such as mental health helplines and campaigns, systemic gaps in healthcare and education remain. Addressing this growing crisis requires a comprehensive, multi-sectoral approach, including destigmatizing mental health, reforming the education system to reduce unnecessary academic pressure, expanding mental health resources, and providing family and community support. This article urges immediate action to break the silence and create a society that nurtures and protects its children's mental well-being.*

**KEYWORDS:** *Mental Health, Academic Stress, Parental Expectations, Cyberbullying, Awareness*

# 1. INTRODUCTION

In the vibrant streets of India, where youth and vitality fill every corner, a dark and tragic trend is emerging: child suicides are on the rise. This silent epidemic, touching the lives of families from bustling urban centers to remote villages, is forcing the nation to confront the harsh realities of its social, educational, and economic pressures. According to the National Crime Records Bureau (NCRB), the past decade has seen a troubling increase in child suicides, with many young lives lost before they have had the chance to truly begin.

Suicide among children and adolescents is a significant public health concern globally, with wide-ranging social, political, and emotional implications.<sup>2</sup> A pooled analysis of the Global School-Based Survey (GSHS) across 90 countries revealed a significant prevalence of suicidal ideation among 397,299 adolescents.<sup>3</sup>

The majority of suicides occur in low- and middle-income countries (LMICs) in the world [3]; India witnessed a constantly rising suicide rate over the past three decades with the highest number of incidences

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<sup>2</sup> Hughes JL, Horowitz LM, Ackerman JP, Adrian MC, Campo JV, Bridge JA. Suicide in young people: screening, risk assessment, and intervention. *BMJ*. 2023;381. 10.1136/bmj-2022-070630.

<sup>3</sup> Denton, E.G., *Take a Closer Look: Suicide in Low-and Middle-Income Countries (LMICs)*, Youth Suicide Research Website (2022), [Blog Post] [Internet].

in the world.<sup>4</sup>

However, it is important to recognize that the true number of student suicides is probably underestimated. This underreporting can be attributed to several factors, including the social stigma surrounding suicide and the criminalization of attempted suicide and assisted suicide under Section 309 of the Indian Penal Code.<sup>5</sup>

The reasons for this surge in suicides among children and adolescents are complex, spanning factors such as academic stress, mental health issues, family conflict, and societal expectations. With over one-third of India's population under the age of 18, addressing the root causes of this crisis is more urgent than ever. This article delves into the nuances of this harrowing issue, shedding light on the struggles faced by young people in India today.

## **2. UNDERSTANDING THE RISING NUMBERS**

The data surrounding child suicides in India is both heartbreaking and alarming. Several factors contribute to these rising rates. In a society where success is often measured by academic and professional

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<sup>4</sup> Swain, P.K., Tripathy, M.R., Priyadarshini, S., & Acharya, S.K., *Forecasting Suicide Rates in India: An Empirical Exposition*, 16(7) PLoS ONE e0255078 (2021), <https://doi.org/10.1371/journal.pone.0255342>.

<sup>5</sup> *The Indian Penal Code*, § 309, amended by *The Mental Healthcare Act*, No. 10, Acts of Parliament, 2017 (India).

achievements, children as young as 10 feel intense pressure to perform well in school. Parental expectations, often influenced by the broader societal value placed on success and stability, can push children to their breaking points. With limited access to mental health resources, many young people suffer in silence. India reported the highest suicide rate in 2021 with 12 suicides for every 100,000 population.<sup>6</sup>

Several factors contribute to the increase in youth suicide rates worldwide and in India, such as mental health problems, history of trauma, family problems and substance abuse. Also, coaching centers dedicated to highly competitive exams like IIT-JEE and medical entrance exams intensify the competition, inducing anxiety and stress. It is therefore essential to pay attention to suicide prevention strategies and plans.

Over the past few decades, the suicide rate in India has been increasing rapidly. The affected children who were developmentally vulnerable or temperamental and who lacked an adequate support system in their environment. It is essential to create a child-friendly environment with mental health support. Policy makers and stakeholders must prioritize the well-being of children. Child and adolescent suicide prevention requires a comprehensive public health strategy for children and adolescents. This approach should include effective prevention

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<sup>6</sup> National Crime Records Bureau (NCRB), *Accidental Deaths & Suicides in India*, (2021), [https://ncrb.gov.in/sites/default/files/ADSI-2021/adsi2021\\_Chapter-2-Suicides.pdf](https://ncrb.gov.in/sites/default/files/ADSI-2021/adsi2021_Chapter-2-Suicides.pdf) (last visited Mar. 20, 2025).

strategies, risk recognition strategies and services for people at risk. As a suggestion, states could consider integrating surveillance programs in each district into a national dashboard that monitors and records suicide statistics and information in real time. This can help the effective interaction with actors in the government, schools, health institutions and social groups that connect families and children. Public awareness campaigns and educational strategies aimed at children and adolescents in school and community programs can improve knowledge of suicide risk, help-seeking behaviours, and understanding of causes and factors that contribute to suicidal behaviour. There is an urgent need to understand the causes of youth suicide and implement effective prevention strategies to address this crisis in India.

Adolescent suicides constitute a major proportion of the total number of suicides happening in India every year. Here it is important to mention that the adolescent population in India constitutes one-fifth of its total population and is the largest for any country in the world.<sup>7</sup>

The period of adolescence comprises a lot of rapidly occurring changes in the physical, social, emotional, cognitive, and intellectual domains of an individual; one of the major outcomes of this rapid development among adolescents is risk-taking behaviors.<sup>8</sup>

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<sup>7</sup> UNICEF, *Adolescents*, (2022), <https://data.unicef.org/topic/adolescents/overview/> (last visited Mar. 20, 2025).

<sup>8</sup> Youth.Gov, *Adolescent Health*, (2022), <https://youth.gov/youth-topics/adolescent-health#:~:text=Adolescence%20is%20an%20important%20time%20for%20promotin>



The risk factors of suicide increase the potential for a person's suicide or suicidal behavior. Studies show that the interaction between multiple factors like biological, psychological, sociocultural, and family-like factors can cause major risks/reasons for adolescent suicide.<sup>9</sup>

It may also be stated that the 2019 worldwide statistics show that an estimated 166 million adolescents (89 million boys and 77 million girls) had mental health conditions, which means one in seven adolescents experience mental health issues.<sup>10</sup>

Suicide prevention programs should involve many actors, including schools, parents, mental health professionals and community organizations. Raising awareness of mental health and suicide prevention guidelines and promoting strong support systems, counselling services and facilitating positive communication between students and their parents can be effective in preventing suicide among students who are preparing for the exams. These programs should focus on building resilience, providing mental health support and addressing risk factors that contribute to youth suicide.

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g%20health,ages%20of%2010%20and%2019%2C%20are%20generally%20healthy (last visited Mar. 20, 2025).

<sup>9</sup> Bilsen, J., *Suicide and Youth: Risk Factors*, 9 **Frontiers in Psychiatry** 540 (2018), <https://doi.org/10.3389/fpsy.2018.00540>.

<sup>10</sup> UNICEF, *Adolescent Mental Health Statistics*, UNICEF for Every Child (2021), <https://data.unicef.org/topic/child-health/mental-health/>.

### **3. ACADEMIC PRESSURE – THE HEAVY BURDEN ON YOUNG SHOULDERS**

India's education system is notoriously competitive, with students vying for limited seats in prestigious institutions and coveted career paths. The emphasis on securing top grades and excelling in national exams places an overwhelming burden on children, leaving them with little room for failure. It is to be noted that the student suicides rate has significantly increased in the year of 2022 as compared to 2021. There are several instances such as Kota coaching center in India in Rajasthan which highlights the multifaceted nature of this deeply troubling problem.

The underlying factors like being an adolescent, gender, or ethnicity have been reported as potential to increase the impact of certain risk factors.<sup>11</sup>

In the context of child suicide in India, the statistics highlight the need for comprehensive interventions that address the root causes. Solving this problem requires a comprehensive approach in the socio-ecological framework, which aims to transform the environment and support children. Cooperation between the different levels of society is essential to prevent further tragedies.

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<sup>11</sup> Amitai M & Apter A, Social Aspects of Suicidal Behavior and Prevention in Early Life: A Review, 9 Int'l J. Env'tl. Res. & Pub. Health 985 (2012).

From a young age, children are groomed to focus on academics, often at the expense of their hobbies, friendships, and overall well-being. Parents and teachers, while well-intentioned, may inadvertently contribute to the pressure by emphasizing the importance of good grades. For many young students, the fear of failure, humiliation, and disappointing their families becomes insurmountable.

One telling example is the entrance exam for the Indian Institutes of Technology (IIT), an extremely competitive and challenging test that demands intense preparation. Students who fail to make the cut often face feelings of inadequacy and despair, leading some to consider drastic measures. Moreover, children are frequently enrolled in coaching centers, where grueling schedules and intense workloads further contribute to their mental exhaustion.

## **4. MENTAL HEALTH IN INDIA – A NEGLECTED CRISIS**

While mental health awareness is growing globally, India's mental health system remains underfunded, underdeveloped, and stigmatized. According to the World Health Organization (WHO), India has one of the highest suicide rates in the world, with mental health issues often dismissed or ignored due to cultural beliefs and misconceptions. At the same time, mental health in India is also neglected and inadequately

understood across all age groups.<sup>12</sup>

Youths in India generally view suicide as morally unacceptable and heavily stigmatized.<sup>13</sup> Adolescents and their issues in Indian culture are not taken seriously as they are considered naive and exaggerated, for which they must be put to face life's challenges, most importantly with the least support, to learn from adversities.<sup>14</sup>

Mental health challenges among children and adolescents are particularly overlooked. There is a widespread lack of awareness, with many parents and teachers dismissing symptoms of anxiety and depression as “phase-related” or “attention-seeking” behavior. Schools, often unprepared to identify or support mental health issues, fail to offer the counselling services that could help students cope with their struggles.

Further compounding the issue is the limited number of mental health professionals. India faces a severe shortage of qualified practitioners. Many children and families have no access to proper mental health care, leaving young people isolated in their distress.

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<sup>12</sup> Behera P, Parida J, Kakade N, Pati S & Acharya SK, Addressing Barriers to Mental Healthcare Access for Adolescents Living in Slums: A Qualitative Multi-Stakeholder Study in Odisha, India, 145 Child & Youth Servs. Rev. 106810 (2023).

<sup>13</sup> Gaiha SM, Taylor Salisbury T, Koschorke M, Raman U & Petticrew M, Stigma Associated with Mental Health Problems Among Young People in India: A Systematic Review of Magnitude, Manifestations and Recommendations, BMC Psychiatry (forthcoming).

<sup>14</sup> [14] S. Patra, ed., Adolescence in India: Issues, Challenges and Possibilities (Springer Nature 2022).

## **5. THE ROLE OF TECHNOLOGY AND SOCIAL MEDIA**

The digital revolution has transformed the way Indian children connect with the world, offering both opportunities and challenges. With social media platforms like Instagram, Facebook, and TikTok, children are constantly exposed to curated, idealized versions of life, leading to a cycle of comparison and self-doubt. This phenomenon, known as "social media envy," can lead to feelings of inadequacy and loneliness, particularly for vulnerable adolescents.

Moreover, the internet offers access to an unregulated realm where children may be exposed to cyberbullying, harassment, and negative influences. Cyberbullying has emerged as a major issue in India, with reports showing that a significant percentage of teenagers experience harassment online. Such experiences can be devastating, leading some children to withdraw socially or, in extreme cases, contemplate self-harm.

While technology is a powerful tool for learning and communication, its potential harm to young mental health is evident. As Indian society grapples with the pervasive influence of technology, creating digital literacy programs and fostering healthy online habits is critical to curbing the potential damage to young minds.



## **6. FAMILY DYNAMICS AND THE ROLE OF PARENTING**

Family plays a pivotal role in a child's development and mental well-being. In India, traditional family structures often come with hierarchies and expectations, and the parent-child relationship is frequently authoritarian. This dynamic can prevent open communication, leaving children unable to express their emotions or seek help.

In cases where families face financial hardship, children may feel obligated to excel academically to secure a better future for their families. This sense of duty, while commendable, can weigh heavily on young shoulders, compounding their stress and anxiety. Additionally, family conflicts and domestic violence create a toxic environment for children, increasing their susceptibility to mental health issues.

On the other hand, a lack of adequate parental support can also have damaging effects. Parents who are absorbed in their work, or who spend long hours away from home, may inadvertently contribute to their children's sense of isolation. Studies have shown that a strong, supportive family environment is essential for healthy emotional development, highlighting the importance of fostering open dialogue and understanding within families.

## **7. SOCIOECONOMIC CHALLENGES AND INEQUALITY**

India's socioeconomic diversity adds another layer of complexity to the issue of child suicides. While children from affluent families may face academic and social pressures, those from low-income backgrounds often struggle with different forms of stress. Poverty, lack of educational resources, and the pressure to contribute to family income all impact their mental health.

In rural areas, where resources are even scarcer, mental health issues often go unnoticed or untreated. Children may drop out of school to work, sacrificing their dreams and ambitions. This can lead to feelings of hopelessness, as they grapple with the harsh realities of economic survival.

Moreover, societal stigma associated with poverty further isolates these children, limiting their opportunities and damaging their self-worth. Without adequate support, young people in impoverished communities are especially vulnerable to mental health issues and suicidal tendencies.

## **8. LACK OF MENTAL HEALTH INFRASTRUCTURE**

India's mental health infrastructure remains inadequate to address the

unique needs of children and adolescents. These underfunding impacts accessibility to counselling services, psychiatric care, and mental health programs.

Many schools lack the infrastructure and trained professionals needed to provide essential mental health support. While some private schools have counsellors, most public schools do not offer these services, leaving a significant portion of the population without the support they need.

In recent years, however, there has been an increasing push from both government and non-governmental organizations to raise awareness and improve mental health services. Initiatives like the National Mental Health Program aim to expand mental health care, but these efforts have yet to reach all children in need.

## **9. BREAKING THE SILENCE – THE WAY FORWARD**

Addressing the issue of child suicides in India requires a comprehensive approach, involving various stakeholders, from parents and educators to policymakers and mental health professionals. The following are some recommended strategies to help reduce child suicides:

- **Promoting Mental Health Awareness:** Schools, families, and communities should be educated on the importance of mental health and trained to recognize the signs of mental distress in

children. This can help identify at-risk children and provide them with timely intervention.

- **Counselling and Support Services in Schools:** Schools should employ trained counsellors who can support students through difficult times. Workshops and seminars can also be held to promote emotional well-being and coping strategies.
- **Regulating Academic Pressure:** Reforming the education system to place less emphasis on exam scores and more on holistic development can alleviate some of the stress students face. Introducing life skills programs in schools can prepare students to handle the challenges they may encounter outside academics.
- **Addressing Cyberbullying and Digital Literacy:** Schools and parents should work together to educate children about responsible online behaviour. Anti-cyberbullying initiatives, along with stricter online regulations, can create a safer digital environment.
- **Parenting Workshops:** Empowering parents with knowledge on effective parenting techniques can help create open channels of communication with their children. Parents who understand the emotional needs of their children are more likely to provide the support their children require.
- **Investing in Mental Health Infrastructure:** The government needs to allocate more resources to mental health care,

particularly for children and adolescents. This includes increasing funding for mental health professionals and establishing mental health facilities in rural areas.

- **Encouraging Community Support Programs:** Non-profit organizations and community leaders can play a critical role in providing safe spaces where children feel supported. Community centers can offer extracurricular programs, counselling, and other activities that foster resilience and confidence.
- **Changing Societal Perceptions:** Creating a supportive environment for children requires challenging societal norms and values that prioritize success over well-being. Campaigns that destigmatize mental health issues and encourage self-expression can empower children to seek help without fear of judgment.

## 10.CONCLUSION

The growing rate of child suicides in India is a tragic crisis that reflects profound societal challenges. It is a stark reminder that many young lives are under immense pressure, faced with academic, social, and family expectations that can feel insurmountable. As the nation strides toward modernization and progress, it cannot ignore the struggles of its youth, who are often forced to navigate a complex web of pressures without adequate mental health support or understanding.

In a culture that frequently emphasizes academic success as a pathway

to stability and prosperity, children are conditioned from a young age to meet high expectations. Parental and societal pressures drive children toward excellence, often leaving them with little room for failure. For many, falling short of these expectations translates into feelings of inadequacy and worthlessness, which, without guidance or support, can lead to tragic outcomes. The stress to excel, coupled with a lack of sufficient outlets for emotional expression, results in a growing number of young people suffering silently.

The role of technology has further complicated the landscape for young people. On one hand, digital platforms provide spaces for connection and learning. It may be stated that they have become sources of comparison and cyberbullying. Many children, exposed to idealized versions of life online, develop feelings of inadequacy and low self-worth. Cyberbullying, a prominent issue in India, has only intensified the mental health challenges that adolescents face. In the absence of digital literacy and support, children often lack the resilience needed to cope with online harassment and unrealistic portrayals of life, leaving them vulnerable to anxiety and depression.

Mental health support remains significantly under-resourced in India, compounding the crisis. Despite the nation's high suicide rates, mental health spending accounts for less than 1% of the healthcare budget, a statistic that highlights the systemic neglect of mental health as a priority. The shortage of mental health professionals, combined with limited awareness and social stigma, prevents many young people from

seeking the help they need. This is especially true in rural areas, where access to mental health resources is scarce or non-existent. Schools, which could serve as safe spaces for children, often lack the resources and trained personnel to provide meaningful support.

The family dynamic is another critical factor in this crisis. Many children grow up in environments where emotional openness is discouraged, and feelings of distress are dismissed or minimized. In households with strict or authoritarian parenting styles, children may feel they cannot voice their fears and anxieties. This lack of communication and understanding within families often leaves children feeling isolated and unsupported. In addition, for families grappling with financial stress, the weight of economic expectations often trickles down to children, who feel compelled to succeed academically as a means of securing a better future for their families. Unfortunately, this sense of obligation can deepen a child's anxiety and stress, further affecting their mental well-being.

Addressing this crisis will require a comprehensive approach, with efforts from families, schools, communities, and the government. Families must foster environments where children feel safe and supported. Parenting programs can equip parents with tools to better understand and respond to their children's emotional needs, creating a nurturing home environment where children feel free to express themselves.

Schools should also play a pivotal role in safeguarding children's

mental health. Providing access to trained counsellors, integrating mental health education into the curriculum, and offering peer support programs can create a more supportive school environment. A balanced approach to education—one that emphasizes holistic development rather than academic achievement alone—would relieve some of the pressure placed on children, promoting well-being alongside learning.

Community-based support networks can further protect vulnerable children, particularly in underserved areas. Programs organized by NGOs and local groups can offer mentorship, recreational activities, and mental health workshops that foster resilience and create a sense of community. Digital literacy programs can help children learn responsible online behaviours, enabling them to navigate social media healthily and build resilience against cyberbullying.

The government must increase its investment in mental health care, with special focus on child and adolescent services. Expanding access to mental health professionals, especially in rural regions, and increasing mental health budgets will allow India to build a robust support system that can prevent young lives from being lost to suicide.

Finally, a cultural shift in attitudes toward mental health is essential. Public awareness campaigns can help de-stigmatize mental health issues, encouraging open dialogue and making it easier for children to seek help. By valuing mental well-being as much as physical health, society can empower young people to express their struggles without fear of judgment.



The rising tide of child suicides in India is a call to action, demanding that society confront its deep-seated values around success, competition, and mental health. To prevent the loss of young lives to this silent epidemic, we must build compassionate and supportive environments across homes, schools, and communities. Ultimately, protecting the innocence and well-being of every child should be our top priority, for they are the future, and their voices deserve to be heard.

# THE EXPANDING HORIZONS OF ARTICLE 21: RIGHT TO LIFE AND PERSONAL LIBERTY



- Dipankar Das<sup>15</sup>

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## ABSTRACT

*This research paper explores the broad scope of Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The Constitution of India, when written, constitutes the fundamental law of the land. All democratic constitutions recognize the fundamental right to life and personal liberty. Initially, Article 21 was interpreted in a narrow sense, but the Indian judiciary has attributed wider*

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*connotation and meaning to Article 21, extending beyond the Constitution makers' imagination. Article 21 has evolved through judicial activism to encompass a wide range of fundamental rights. This paper examines landmark cases that expanded the interpretation of Article 21, including the right to privacy, the right to dignity, environmental protection, and the right to health and medical care, rights under the procedure established by law. Article 21 is the sole of the constitution every Indian citizen including foreign nationals has been protected under this article. In modern constitutions, this freedom and fundamental rights are not absolute and are subject to reasonable restrictions. But the judiciary in India has widened the scope & dimensions of this right to a large extent. Hence this research delves into the judicial evolution of Article 21, examining how it has become a cornerstone of human rights protection in India. The study also addresses the challenges associated with interpreting Article 21 in the context of modern legal and social issues.*

**KEYWORDS:** *Privacy, Human Rights, Fundamental Rights, Dignity, Shelter.*

# 1. INTRODUCTION

Fundamental rights enshrined under part – III, of the Constitution of India are not merely symbolic but a guarantee provided to the citizens of India. These rights assured the security, dignity, and liberty of all persons. Among all these rights Article 21 of the Indian constitution is called the heart of fundamental rights, it is defined as the Magna Carta of India because it includes an extensive list of Fundamental Rights. This inclusion aligns India with the principles seen in other modern democracies, emphasizing the protection of individual freedoms and human dignity.

The Declaration of Fundamental Rights aims to safeguard certain core rights by removing them from the arena of political debate. These rights are thus not subject to change based on the fluctuating majority in the legislature. Rights such as life, liberty, freedom of faith, and freedom of religion are foundational and exist independently of legislative decisions; they represent inherent freedoms that are beyond the reach of political influence.<sup>16</sup>

Constitutional rights in India embody fundamental principles that reflect the core values held by the people. These rights are designed not only to uphold individual dignity but also to ensure that every person has the opportunity to realize their full potential. By safeguarding

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<sup>16</sup> A.K. Gopalan v. State of Madras, AIR 1960 SC 27. (See also W. Va. State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943)).

freedoms such as equality, liberty, and justice, Constitutional rights create an environment in which individuals can develop and thrive within a democratic framework. This protective layer strengthens the social fabric and enables the nation to progress holistically, with each individual's development contributing to the larger societal welfare.<sup>17</sup>

The United Nations Charter of Human Rights, like Part III of the Indian Constitution, recognizes civil, social, and political rights in a comprehensive and open manner. The aim of including constitutional rights in the Indian Constitution is to create a "legal government" that cannot impose arbitrary restrictions on citizens' rights and freedoms. Making fundamental rights a part of the Constitution elevates them beyond the reach of ordinary government control. In a parliamentary system, those in power can usually pass laws without much opposition. However, by giving certain rights a constitutional status, they become protected from easy interference, making it difficult for authorities to limit citizens' freedoms without a formal amendment.

The fundamental rights incorporated under Indian constitution are classified under six groups:

- (i) Right to Equality (Articles 14 - 18),
- (ii) Right to Freedom (Articles 19 - 22),
- (iii) Right against exploitation (Articles 23 - 24),

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<sup>17</sup> Maneka Gandhi v. Union of India, 1978 SCR (2) 621.

- (iv) Right to Freedom of Religion (Articles 25 - 28),
- (v) Cultural and Educational Right (Articles 29 - 30) and
- (vi) Right to Constitutional Remedy (Article 32 - 35).

Article 21 of the Indian Constitution states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” At first glance, this provision appears limited to protecting an individual from arbitrary deprivation of life and personal liberty. However, over time, the judiciary has interpreted this article to provide citizens with a wide range of fundamental rights.

## **2. MEANING OF LIFE**

In common understanding life is often seen as the span of time from birth to death. However, in broader sense, life encompasses qualities like fitness, flexibility, resilience, health, strength, and vitality.<sup>18</sup> The term “Life” according to the New Encyclopedia Britannica refer to the system that is capable of performing a variety of functions such as diet, exercise, breathing, movement, growth, reproduction, commitment and being responsible o external stimuli.<sup>19</sup>

Human life can be understood biologically as the union of body and

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<sup>18</sup> William C. Burton, *Legal Thesaurus* 316 (5th ed. McGraw-Hill Educ. 1991).

<sup>19</sup> *The New Encyclopedia Britannica* 985 (15th ed. Encyclopaedia Britannica Inc. 2010).

soul. When the soul departs, life ends. On a physical level, the cell is the fundamental building block of human life. Cells join to form various tissues, which then combine to create organs, and collectively, these organs constitute a human being. Each person's body is a testament to this intricate design. Even Darwin's theory of evolution supports humanity's advanced place in the evolutionary hierarchy, a view further reinforced by anthropological findings.

### 3. RIGHT TO LIFE

The term "Right" here refers to a natural birthright, meaning everyone has the inherent right to live their own life. The right to life is central to all fundamental rights, as outlined in Part III of the Indian Constitution. Other rights are essentially meaningless without it. By natural law, every person has a claim to life. Just like a machine needs fuel to function, people need food, clothing, shelter, and other basics to sustain physical existence. This fundamental right to life thus forms the basis for many other rights. The Supreme Court of India has expanded on this concept through various interpretations.

In the *Kharak Singh v. State of U.P.*<sup>20</sup> the Supreme Court of India held that "life," as used in Article 21 of the Constitution, means more than mere animal existence. This interpretation includes all physical and

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<sup>20</sup> Kharak Singh v. State of U.P., AIR 1963 SC 1295, 1964 SCR (1) 332.

mental faculties that allow a person to fully experience life. The right to life also protects against any harm that would alter or mutilate the body, like the amputation of limbs or the loss of eyesight, as these are essential for a person's connection with the world.

The Supreme Court extended the concept of the right to life beyond mere physical safety in the *Francis Coralie case* <sup>21</sup> The Court recognized that the right to life must also include the protection of human dignity and all aspects of a person's well-being. This means that, along with physical survival, human dignity must be preserved throughout one's life. Consequently, adequate nutrition, clothing, shelter, and the freedom to read, write, express oneself, move freely, and engage with others are considered essential components of a dignified life for all individuals.

The above observations strongly emphasize that the right to life, as a "birthright," has the power to uphold and even overshadow other rights. For this reason, the right to life is often considered the "Fundamental of all Fundamental Rights."<sup>22</sup>

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<sup>21</sup> Francis Coralie Mullin v. Admin., Union Territory of Delhi, AIR 1981 SC 746, (1981) 2 SCR 516.

<sup>22</sup> B. Erabbi, *The Right to Life and New Strategy of Enforcement*, Paper Presented at U.G.C. Seminar on *Judicial Activism and Social Change*, Faculty of Law, Univ. of Jammu (1987).



## 4. MEANING OF PERSONAL LIBERTY

According to **Dicey**, "the right to personal liberty" means that no one should face imprisonment, arrest, or any form of physical restraint unless there is a lawful justification for it.<sup>23</sup>

**Blackstone** highlighted freedom of movement as essential to individual liberty, stating that "personal liberty includes the right to decide one's location or move freely without imprisonment or restraint," except when restricted by lawful authority.<sup>24</sup>

In a narrower sense, **Ernest Barker** defines it as "the freedom an individual enjoys within their personal capacity." Personal liberty includes three key components: first, physical freedom, protecting life and health; second, freedom of movement and intellectual freedom, allowing the expression of thoughts and beliefs; and third, practical freedom, which covers the freedom to act, make choices, and engage in relationships and contracts with others.

According to **Lord Denning**, personal freedom refers to the ability of law-abiding citizens to choose their actions, express their intentions, and travel freely during their free time, without interfering with others.

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<sup>23</sup> A.V. Dicey, *Law of the Constitution* 207 (1st ed. Oxford Univ. Press 1961).

<sup>24</sup> 1 William Blackstone, *Commentaries on the Laws of England* 134 (Clarendon Press 1844).

However, this freedom must be balanced with public safety, ensuring peace and order within the society in which they live.<sup>25</sup>

When examining various national constitutions, there is no consistent use of the term "Personal Liberty." For instance, the constitutions of the United States, Cambodia, Japan, and Belgium use the term "Liberty," while those of Germany, Ireland, Italy, and Portugal specify "Personal Liberty." Additionally, the Universal Declaration of Human Rights uses only the term "Liberty."<sup>26</sup>

This is evident in the initial draft of the Indian Constitution, which used only the term "liberty."<sup>27</sup> Later, the Constituent Assembly added the word "personal" <sup>28</sup> before "liberty" to ensure the term wasn't misinterpreted and to emphasize that it specifically included individual freedom.

Initially, the Indian Supreme Court interpreted the term "Personal Liberty" in Article 21 narrowly, aligning with Dicey's definition under English law. However, starting with a limited view, as seen in the **A.K. Gopalan v. State of Madras**,<sup>29</sup> the Supreme Court gradually expanded its interpretation over time.

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<sup>25</sup> Alfred Denning, *Freedom Under the Law* 5 (1st ed. Stevens & Sons 1949).

<sup>26</sup> Universal Declaration of Human Rights, art. 3, G.A. Res. 217A (III), U.N. Doc. A/810 (1948).

<sup>27</sup> 3 *Constituent Assembly Debates* 441 (1947).

<sup>28</sup> 6 *Constituent Assembly Debates* 1001 (1948).

<sup>29</sup> A.K. Gopalan v. State of Madras, AIR 1950 SC 27, 1950 SCR 88.

In *Kharak Singh v. State of U.P.*,<sup>30</sup> the Court broadened the limited view of "personal liberty" set in **Gopalan**. The Court ruled that "personal liberty" in Article 21 includes all inherent rights, except those specifically covered under Article 19.

Following the judgment in *Maneka Gandhi v. Union of India*<sup>31</sup> the term "personal liberty" in Article 21 gained significant expansion, now encompassing various rights, including those within the article itself. The interpretation of "personal liberty" as described by Lord Denning and Earnest Barker is now similarly recognized under the Indian Constitution.

The phrase "personal liberty" in Article 21 of the Constitution is no longer limited to Dicey's concept of personal liberty. Instead, it now refers to the freedoms and rights granted to a person through established legal procedures.

## **5. CLASSIFICATION OF PERSONAL LIBERTY**

Personal freedom can be divided into two main types: positive liberty and its opposite, negative liberty. When understood from a negative perspective, personal freedom implies an absolute absence of restraint

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<sup>30</sup> Kharak Singh, supra note 6.

<sup>31</sup> Maneka Gandhi v. Union of India, AIR 1978 SC 597, (1978) 2 SCR 621.

on an individual's thoughts, speech, and actions. Under this view, individual rights hold no real value if they are subject to interference from the state. This restrictive notion of liberty is evident in the American Bill of Rights and similarly reflected in the Indian Constitution's fundamental rights, where personal liberty is safeguarded from government intrusion.

Conversely, the positive aspect of personal liberty emphasizes the importance of individual rights within the community. Here, the state plays a role in enabling each individual to fully realize their unique identity. This means the state must provide the necessary resources and opportunities for individuals to develop their personalities and potential. Rights such as the right to education and the right to a clean and healthy environment fall within this positive view of personal liberty. To foster personal growth, each civilized society has a responsibility not only to protect individuals from undue interference but also to provide positive support. For instance, the state should not only allow individuals to publish political material but also provide the resources needed for them to do so.

While negative liberty represents a traditional view of freedom, encompassing most personal rights, the importance of positive liberty should not be overlooked. After all, freedom to read is meaningless if books are unavailable. Negative liberty can further be categorized into

two protections: freedom from government interference and freedom from intrusion by private individuals or groups. Ensuring negative liberty means protecting individuals not only from state encroachment on their rights but also from interference by others. This could mean, for example, that a person is safeguarded not only from police interference but also from aggressive responses from others, with the state actively working to "remove obstacles" to their freedom.

Thus, in some cases, if the free hand use of the human rights somehow contradicts the protection of the public interest thus it will requires up to extent put certain restrictions; on the other hand, existing social controls for the public good must be prevented, it could not be used in the detriment of individual rights and freedoms. The aforesaid, even though no one is allowed to override civil rights altogether, the public should not infringe on human rights unless there is an urgent and most important reason.<sup>32</sup> Thus, it is therefore argued that the claim of liberty for each individual must be judged by the public's need for security.

Now a days, people are giving too much importance and become very active regarding rights with respect to the changing socio-economic conditions. It is important to be noted that the is required in the times essence to give the people certain rights under the changed socioeconomic circumstances. Let's consider the example of developed country whatsoever form of he government reflects the central theme of

their constitution like rich developed country attach their personal liberty importance in terms of political perspective whereas the socialist democratic state commitment towards the economic and political perspective of personal liberty rights.

## **6.LIMITS OF PERSONAL LIBERTY**

The notion of absolute and unrestricted personal liberty is fundamentally unattainable for any modern democratic state. Unrestricted liberty would effectively grant individuals full immunity, allowing them to act against the interests of others, society, or the state without consequence. While acknowledging human freedom, it is crucial to recognize that personal liberty cannot be sacrificed. The challenge lies in maintaining personal freedom while imposing necessary controls. Personal liberty, as protected by the constitution, functions within an organized society that ensures public order.

If individuals were granted complete personal liberty, legal restrictions on prohibited actions would become irrelevant, creating a burden on the state to uphold public law and order. Each person might justify their actions as constitutional rights, leading to potential tyranny and discord within society. Therefore, it is essential to find a balance between personal liberty and societal control.

**Isaiah Berlin**<sup>32</sup> pointed out that throughout human history, whether in the East or West, societies have faced violent upheaval due to conflicting social and political doctrines. He noted that critical ideas, necessary for addressing such issues, are often overlooked by those in power and by prominent thinkers. Berlin argued that coercion is a reality learned from history, where every moral perspective requires interpretation, even as various ideas abound regarding certain concepts. He identified two central notions of freedom: '**negative liberty**,' which focuses on the absence of interference, and 'positive liberty,' which emphasizes the freedom of individuals or groups to pursue their interests without external obstruction.

Berlin explained, “It is generally said that any person should be free as long as they do not interfere with others. In this sense, political freedom allows a person to operate without interruption. If I am prevented from doing what others can, I am un-free to that extent. If this space is limited by others beyond a certain point, I may be described as enslaved. However, coercion is not limited to overt forms; for example, if I cannot jump more than ten feet or read due to blindness, this represents a different kind of inability. Coercion involves the deliberate interference of others that restricts my potential.”

Thus, it is vital to maintain personal freedom within its defined

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<sup>32</sup> Isaiah Berlin, *Two Concepts of Liberty*, in *Four Essays on Liberty* (Oxford Univ. Press 1969).

boundaries and controls. The guarantee of personal liberty by the constitution signifies the existence of an organized society that upholds public order. Complete personal freedom without social regulation leads to chaos, resulting in wastefulness and confusion.<sup>33</sup>

To avoid oppression and despotism, a balance between personal liberty and public control must be established through just, fair, and reasonable processes. This balance ensures equal treatment for all individuals. However, the government faces significant challenges in achieving this equality due to the dynamic nature of Indian society. In certain contexts, personal freedom may take precedence over social control, while in others, social order may be more critical.

Consequently, the limits and constraints of personal freedom are likely to fluctuate over time and vary from one country to another, influenced by social, political, economic, and other factors.<sup>34</sup>

## **7.INTERPRETATION OF ARTICLE 21**

The phrase "procedure established by law" in Article 21 of the Indian Constitution is comparable to the Fifth Amendment of the U.S. Constitution.<sup>35</sup> Although the term "due" is not explicitly included in Article 21, the Supreme Court has interpreted it broadly and

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<sup>33</sup> Willis, *The Constitutional Law of the United States* 477–82 (Principia Press 1936).

<sup>34</sup> P.B. Mukherjee, *Civil Liberties in India*, 14 ILIJ 459, 459–70 (1968).

<sup>35</sup> U.S. Const. amend. V.



dynamically in various judgments. The protections against the deprivation of life and liberty in the Indian Constitution are narrower than those in the United States Constitution.

**Article 21** of the **Constitution of India** states:

*“No person shall be deprived of his life or personal liberty except according to the procedure established by law”*.<sup>36</sup>

The term "personal liberty" within Article 21 has been interpreted widely. It is understood to encompass the "liberty of the physical body," meaning the freedom from arrest, detention, false imprisonment, or wrongful confinement.<sup>37</sup> Initially, this was expressed in relation to the physical restraint and preventive detention of individuals. However, this limited interpretation has not been upheld in subsequent cases.<sup>38</sup>

The guarantee against wrongful deprivation of life or liberty under Article 21 is founded on principles of procedural regularity and fairness, applying to both citizens and non-citizens. This protection is not at the mercy of executive discretion; no individual can be deprived of personal liberty or detained arbitrarily. Detention must occur only if legally warranted, and in alignment with established legal procedures. All legal safeguards must be accessible to an individual before detention, ensuring protection against arbitrary loss of liberty.

The phrase "procedure established by law" in this context includes

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<sup>36</sup> India Const. art. 21.

<sup>37</sup> *A.K. Gopalan*, supra note 15.

<sup>38</sup> *Kharak Singh*, supra note 6.

adherence to procedural laws, much like the concept of "due process of law" encompassing both substantive and procedural aspects. However, following the *Maneka Gandhi* case, the Supreme Court initially interpreted "personal liberty" narrowly, understanding it to refer only to bodily freedom or the absence of physical restraint. This interpretation limited personal liberty protections to freedom from punitive and preventive detention, aligning with Dicey's definition, which views "personal liberty" as the right to remain free from imprisonment, arrest, or any form of physical coercion that lacks legal justification.

In the landmark decision of the seven-judge Constitutional Bench in *Maneka Gandhi's case*<sup>39</sup> which overruled the earlier judgment in *Gopalan's case*, the Supreme Court set a pivotal precedent for interpreting Article 21. This decision marked a turning point, establishing a foundation for the evolving interpretation of laws concerning individual human rights through judicial intervention. Consequently, the Supreme Court has now firmly established that the term "law" in Article 21 must incorporate the principles of natural justice, ensuring that the established procedure is fair, just, and reasonable.

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<sup>39</sup> *Maneka Gandhi*, supra note 17.

## 8.THE JUDICIAL APPROACH OF ARTICLE 21

To fully understand the development of the right to life under Article 21, it is essential to consider the traditional stance of the Supreme Court. Initially, the Court's interpretation, as set forth in *A.K. Gopalan v. Union of India*, was that a person could only be deprived of their right to life in accordance with the **"procedure established by law."** This limited understanding confined the judiciary's view, interpreting Article 21 in a restrictive manner.

Following *A.K. Gopalan*, the state began to enforce mechanisms that intervened with an individual's right to life by establishing specific procedures that were formally enacted as law. The focus remained on procedural adherence without regard for whether the law itself was fair or impartial. In this judgment, the Court refrained from ensuring "due process" protections under Article 21, so long as laws like the Preventive Detention Act were duly passed under Article 22.

In essence, the judiciary initially interpreted "personal liberty" merely as protection against wrongful arrest or detention, confining it to physical freedom from coercion. This narrow interpretation of Article 21 gradually evolved over time.

The landmark *Maneka Gandhi* case signified a turning point. Here, the Court dramatically reinterpreted Article 21 to include "due process of

law," expanding the article's scope to encompass the procedural fairness and justness of laws. This new understanding extended the right to life and personal liberty into new dimensions, covering an array of rights within human rights, regardless of the original intent of the Constitution's framers.

While Article 21 is written in negative language, the Maneka Gandhi case established that it holds both negative and affirmative aspects. Article 21 now recognizes several positive rights, frequently affirmed in subsequent cases, thereby extending the scope of protections under this article.

## **9. EVOLVING JURISPRUDENCE OF ARTICLE 21**

In addition to its traditional approach, the Supreme Court has gradually reinterpreted Article 21 to encompass aspects of social justice, thereby extending its scope, especially in the (post-Maneka Gandhi era) which is after the landmark Judgment in the case of Maneka Gandhi v. Union of India. Below are some landmark rulings that reflect this expansion:

### **RIGHT TO EDUCATION AS PART OF ARTICLE 21:**

Education is viewed as the "third eye" of an individual, essential for leading a dignified, decent life. Originally, the right to

education was included in the Directive Principles of State Policy. However, recognizing society's changing needs, the Supreme Court in *Mohini Jain v. State of Karnataka*<sup>40</sup> and *Unni Krishnan v. State of Andhra Pradesh*<sup>41</sup> ruled that the right to education is a fundamental right under Article 21, as it influences a person's mental and physical capabilities and is crucial for individual growth within society. Further, the Court extended this right to include a safe education, explicitly enshrined under Article 21-A, making it available to every citizen as a fundamental right.

### **RIGHT TO LIVELIHOOD UNDER ARTICLE 21:**

The right to livelihood stems directly from the right to life, as sustenance is necessary to live. Without recognizing livelihood as an integral part of Article 21, depriving a person of employment would deny them a meaningful existence. The Supreme Court acknowledged this connection in *Olga Tellis v. Bombay Municipal Corporation*<sup>42</sup>, declaring that the “right to life and personal liberty” includes the “right to live with dignity,” which inherently encompasses the right to livelihood.

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<sup>40</sup> *Mohini Jain v. State of Karnataka*, AIR 1992 SC 1858, (1992) 3 SCR 658.

<sup>41</sup> *Unni Krishnan v. State of Andhra Pradesh*, AIR 1993 SC 2178, (1993) 1 SCR 594.

<sup>42</sup> *Olga Tellis v. Bombay Municipal Corporation*, 1986 AIR 180, 1985 SCR SUPPL.

## **RIGHT TO SPEEDY JUSTICE AND SPEEDY TRIAL UNDER ARTICLE 21:**

Recognizing the serious issue of delayed justice, the Court has underscored the urgency of timely case disposals, directing authorities to act swiftly to prevent crises of backlog.<sup>43</sup> For instance, procedural laws failing to ensure a speedy trial are invalid. In one habeas corpus petition, numerous undertrial prisoners from Bihar, languishing in jail for years awaiting trial, sought relief. The Supreme Court held in *Hussainara Khatoon v. Home Secretary*<sup>44</sup>, State of Bihar and later in *Kadra Pahadia v. State of Bihar*<sup>45</sup> that the right to a speedy trial is integral to the right to life and personal liberty under Article 21. Any denial of this right entitles the accused to petition the Supreme Court under Article 32 for enforcement, and the Court has authority to issue directions to the State.

## **CAPITAL PUNISHMENT AS A NON-VIOLATION OF ARTICLE 21:**

In *Mithu v. State of Punjab*<sup>46</sup>, the Supreme Court deemed a mandatory death sentence for life convicts guilty of murder (as

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<sup>43</sup> *Moses Wilson v. Kasturiba*, AIR 1978 SC 1675.

<sup>44</sup> *Hussainara Khatoon (I) v. Home Secretary*, 1979 AIR 1360, 1979 SCR (3) 169.

<sup>45</sup> *Kadra Pahadia v. State of Bihar*, AIR 1997 SUPREME COURT 3750.

<sup>46</sup> *Mithu v. State of Punjab*, AIR 1983 SC 473.

per Section 303, IPC) unconstitutional. Challenges to the death penalty's validity have come up repeatedly. In *Jagmohan Singh v. State of Uttar Pradesh*<sup>47</sup>, the Court held that the right to life could only be taken by law if it is reasonable and in public interest. Subsequently, *Bachan Singh v. State of Punjab*<sup>48</sup> upheld the death penalty for murder under Section 302, IPC, as lawful and public interest-driven, stipulating it should only apply in "rarest of rare" cases. Furthermore, solitary confinement was found to contravene Article 21's guarantee.<sup>49</sup>

### **VIOLATION OF ARTICLE 21 BY DELAYS IN TRIAL AND EXECUTION OF DEATH SENTENCES:**

Unreasonable delays by the State in bringing an accused to trial or appealing an acquittal can violate Article 21, even when not attributable to the accused.<sup>50</sup> In *T.V. Vatheeswaran v. State of Tamil Nadu*<sup>51</sup>, the Supreme Court stated that a prolonged delay (beyond two years) in executing a death sentence is unjust, unfair, and unreasonable, and therefore violates Article 21. The

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<sup>47</sup> *Jagmohan Singh v. State of Uttar Pradesh*, 1973 SCR (2) 541.

<sup>48</sup> *Bachan Singh v. State of Punjab*, AIR 1980 SC 898, 1980 Cri. L.J. 636.

<sup>49</sup> *Sunil Batra v. Delhi Administration*, AIR 1978 SC 1675.

<sup>50</sup> *Rudal Shah v. State of Bihar*, (1983) 4 SCC 141 (see also *Police Comm'r, Delhi v. Registrar, Delhi Court*, AIR 1997 SC 95).

<sup>51</sup> *T.V. Vatheeswaran v. State of Tamil Nadu*, 1983 SCR (2) 348.

Court ruled in *Triveniben v. State of Gujarat*<sup>52</sup> that no specific period of delay renders a death sentence unenforceable.

### **RIGHT TO FREE LEGAL AID UNDER ARTICLE 21:**

Article 21 necessitates that “law” is validly enacted, just, fair, and reasonable. The accused, regardless of charges, is entitled to free legal aid if unable to afford counsel, and adequate time and facilities must be provided for defense preparation. Violations of these fair-trial safeguards render trials and convictions invalid. In *M.H. Hoskot v. State of Maharashtra*<sup>53</sup>, the Court invoked Article 39A to require the State to provide free legal aid to indigent prisoners or those unable to secure assistance.

### **RIGHT TO HEALTH AND MEDICAL CARE AS PART OF ARTICLE 21:**

The right to life encompasses health rights,<sup>54</sup> with Article 21 and Directive Principles obligating the State to safeguard life. In *Parmanand Katara v. Union of India*<sup>55</sup>, the Supreme Court held that in medico-legal cases, preserving life takes precedence, mandating doctors provide immediate aid to victims, regardless of their status, without waiting for legal formalities. Likewise,

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<sup>52</sup> *Triveniben v. State of Gujarat*, 1989 SCR (1) 509.

<sup>53</sup> *M.H. Hoskot v. State of Maharashtra*, 1979 SCR (1) 192.

<sup>54</sup> *State of Punjab v. Mohinder Singh Chawla*, AIR 1997 SC 1225.

<sup>55</sup> *Parmanand Katara v. Union of India*, AIR 1989 SC 2039.



*Paschim Banga Khet Mazdoor Samiti v. State of West Bengal*<sup>56</sup> saw the Supreme Court awarding compensation for government hospital service inadequacies.

### **RIGHT TO LIFE EXCLUDING RIGHT TO DIE:**

Marking a notable shift in position, the Supreme Court in *Gian Kaur v. State of Punjab*<sup>57</sup> upheld the validity of Section 309, IPC, penalizing attempted suicide, ruling that Article 21 does not include the right to die. This decision overruled *P. Rathinam's case*<sup>58</sup>, establishing that “right to life” does not imply “right to die,” and that extinguishing life contradicts Article 21’s “protection of life.”

### **PROTECTION AGAINST POLICE ATROCITIES AS GUARANTEED BY ARTICLE 21:**

In cases of prisoner maltreatment, the Supreme Court has actively upheld Article 21 protections. For example, *Prem Shankar v. Delhi Administration*<sup>59</sup> held that handcuffing is inherently inhumane and should be a last resort. In *D.K. Basu v. State of West Bengal*<sup>60</sup>, the Court deemed any form of torture or

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<sup>56</sup> *Paschim Banga Khet Mazdoor Samiti v. State of W.B.*, AIR 1996 SC 2426.

<sup>57</sup> *Gian Kaur v. State of Punjab*, AIR 1996 SC 953.

<sup>58</sup> *P Rathinam v. Union of India*, AIR 1994 SC 1844.

<sup>59</sup> *Prem Shankar v. Delhi Administration*, 1980 SCR (3) 855.

<sup>60</sup> *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

degrading treatment during investigation or interrogation as violating Article 21, holding that compensation could be awarded for custodial deaths, which were labeled as “among the gravest crimes.” In *Sheela Barse v. State of Maharashtra*<sup>61</sup>, the Court mandated protective measures for women detainees against torture and maltreatment.

## **RIGHT TO CLAIM COMPENSATION UNDER ARTICLE 21:**

The Supreme Court has shown an active role in compensatory jurisprudence under Article 21. In *Nilabati Behera v. State of Orissa*<sup>62</sup>, the Court recognized compensation as a fundamental right. Previously a discretionary measure, the Court has increasingly awarded compensation in cases of rights violations, as in *Rudal Shah v. State of Bihar*<sup>63</sup>, where a petitioner wrongfully held in jail received Rs. 35,000 in damages. In *Chairman, Railway Board v. Chandrima Das*<sup>64</sup>, the Court directed the government to compensate a Bangladeshi woman who was gang-raped by Railway Board employees, basing its decision on Article 21.

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<sup>61</sup> *Sheela Barse v. State of Maharashtra*, (1983) CrL LJ 642.

<sup>62</sup> *Nilabati Behera v. State of Orissa*, 1993 SCR (2) 581.

<sup>63</sup> *Rudal Shah v. State of Bihar*, Supra note 70 at 141.

<sup>64</sup> *Chairman, Railway Board v. Chandrima Das*, AIR 2000 SC 1998.

## **RIGHT TO PRIVACY INCLUDED IN ARTICLE 21:**

The concept of the right to privacy under Article 21 was first raised in *Kharak Singh v. State of U.P. & Ors.*<sup>65</sup> In a minority judgment, Justice Subba Rao argued that the right to privacy stems from the idea of "personal liberty." Although a minority opinion, this judgment laid the groundwork for future privacy rights development. Later, in *R. Rajgopal v. State of Tamil Nadu*,<sup>66</sup> the Supreme Court stated that the right to privacy is essentially the "right to be let alone," a concept inherent within the right to life and personal liberty under Article 21 of the Indian Constitution.

Privacy concerns also surfaced with regard to Aadhaar's constitutionality. On August 24, 2017, the Supreme Court in *Justice K.S. Puttaswamy v. Union of India*<sup>67</sup> affirmed privacy as a fundamental right, safeguarded under Articles 14, 19, and 21. This landmark ruling significantly strengthened civil-political rights in India, overturning earlier rulings and paving the way for a modern interpretation of privacy within the framework of Indian constitutional rights.

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<sup>65</sup> *Kharak Singh v. State of U.P. & Ors.*, supra note 6.

<sup>66</sup> *R. Rajgopal v. State of Tamil Nadu*, AIR 1995 SC 264.

<sup>67</sup> *Justice K.S. Puttaswamy v. Union of India*, AIR 1995 SC 264.

## 10. CONCLUSION

Upon the adoption of the Constitution, many of the rights now recognized were not originally guaranteed as fundamental rights under Part III of the Indian Constitution. However, from 1978 onwards, a more liberal judicial interpretation of Article 21 emerged as a central tool for promoting human rights. This liberal judicial approach enabled numerous rights to achieve fundamental status.

The landmark rulings in cases like *Gopalan case*<sup>68</sup>, *Habeas Corpus case*<sup>69</sup> and *Maneka Gandhi case*<sup>70</sup> exemplify how societal change, shifts in law and order, political dynamics, and human rights considerations have impacted judicial perspectives on personal liberty. In *Gopalan case* the Supreme Court initially took a restrictive and conservative approach, viewing personal liberty as limited in scope, excluding certain freedoms such as free movement within India's borders. This conservative trend continued until the *Maneka Gandhi case*, where a more expansive interpretation of personal liberty and fundamental rights gained ground, particularly after experiencing three national emergencies. During the emergency periods, liberal interpretations of life and liberty were limited by state security concerns, with individual freedoms often compromised.

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<sup>68</sup> A.K. Gopalan, *supra* note 15.

<sup>69</sup> A.D.M. Jabalpur v. Shivakant Shukla, AIR 1976 SC 1207.

<sup>70</sup> Maneka Gandhi, *supra* note 17.

However, as the judiciary evolved, cases increasingly recognized broader aspects of personal liberty, including rights to privacy, travel abroad, and even residual rights of detainees, such as the freedom to write and publish. In numerous decisions, the Supreme Court significantly contributed to interpreting Article 21, thereby expanding the obligations and duties of the state and its officials in protecting fundamental rights. This proactive judicial interpretation has demonstrated that the Court, in interpreting Article 21, can enforce rights and, in some cases, add rights deemed inherent to it, thereby broadening the article's scope considerably.

While liberty is essential, it requires certain limitations to function within a civilized society. True liberty cannot exist without boundaries that serve the public good, ensure unbiased enforcement, and foster public trust. As per Locke's principle, "where there is no law, there can be no liberty," liberty necessitates the framework of law. In this sense, the provisions under Part III of the Constitution (Articles 12-32) are rightly termed India's "Magna Carta." Any restrictions on fundamental rights must be balanced, promoting fair and equal treatment for all citizens.

# SILENT SCREAMS: THE UNHEARD AGONY OF INNOCENT SOULS



- Nandini Agarwal<sup>71</sup>

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## ABSTRACT

*Animal Cruelty is one of the worst, heart- wrenching form of abuse a human can do. It can also be called as animal abuse, animal neglect or animal cruelty. Animal Cruelty can be simply defined as a bleak reminder of humanity's darker side that persists as an insidious phenomenon, inflicting unbearable suffering on innocent creatures and emasculating the very foundation of our collective compassion. From the vicious butcher of scarce species to the merciless treatment of domestic pets, the blight of animal cruelty assumes many menacing*

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*forms, highlighting a profound detachment between our capacity for compassion and our actions towards the defenseless beings that share our planet. As we brazen out this callous reality, it becomes crucial to recognize the intrinsic significance and dignity of animal life and to endeavor towards a world where brutality is substituted for kindness and abuse gives way to enrichment and conservation. The paper makes an attempt to highlight the various ways through which cruelty is inflicted towards the animals in the country and worldwide. The researcher also brings to light the different religious perspectives on cruelty, emphasizing the significance of treating these creatures with compassion, kindness and respect. The Constitutional and Legal Framework and the judicial pronouncements for the protection of animals have also been provided.*

**KEYWORDS :** *Cruelty, Abuse, Negligent, Ethical Responsibility, Inhumane Treatment.*

# **1. INTRODUCTION**

The inhumane treatment of animals or is a matter of global concern, and it ranges from simple neglect, abuse, to exploitation of animals by people. Be it the scenario of commercial meat production, utilizing animals for research, as performance props in businesses, or poaching, animals face violence and abuse that violates all fundamental principles of their physical integrity, autonomy, and dignity. This very violence and abuse that emanates from the putative interests of humanity and greed raises great moral questions about the humanity that interacts with other sentient beings that are capable of feeling, suffering, and having emotions like humans do.

In the recent decade, with the spreading awareness and changing outlook towards animal rights, the concern of animal abuse has gained more importance within social, legal, and political spheres. There are countries that have laws protecting animals; however, their implementation leaves much to be desired, and there are always chances of animals being abused. In order to develop a humane attitude and establish a harmonious relationship with the animal world, awareness about the causes and manifestations of animal abuse is fundamental. Understanding animals as creatures with an inherent worth will lead society to take the efforts needed to further animal protection and foster kindness towards animals.



Thus, fighting against animal cruelty is not only a duty but reflects consideration and respect towards those innocent creatures as well. With animal protection being promoted by an increasing number of individuals, it becomes necessary for the society to deal with the scourge of animal abuse while implementing policies and practices that strive to protect animals as living beings.

## **1.1. PERSPECTIVES OF VARIOUS RELIGIONS ON ANIMAL CRUELTY AND ITS PROHIBITION**

**1.1.1. Hinduism-** In Hinduism, animals are regarded as sacred beings, with many animals symbolizing different deities and divine forces. The core Hindu philosophy of Ahimsa (non-violence) is integral to how animals are treated. The scriptures, such as the Rigveda and the Mahabharata, promote compassion towards all living beings. Hindus believe that harming animals disrupts the natural order and violates cosmic laws. The Puranas also emphasize the idea that one's spiritual progress is hindered by violence against any living creature. Cows, in particular, hold a revered position in Hinduism, and their protection is a priority for many Hindus. Killing animals for food or otherwise is generally discouraged unless necessary for survival, and vegetarianism is commonly practiced to reduce harm to animals.

**1.1.2. Islam-** Islam teaches that animals are part of Allah’s creation and must be treated with respect and kindness. The Quran and the Hadith emphasize compassion, with the Prophet Muhammad stating, “Whoever is kind to the creatures of God, he is kind to himself.” Muslims are instructed to care for their animals properly, ensuring that they are not overburdened or mistreated. Islamic dietary laws specify humane methods of slaughter, and cruelty in any form—whether neglect or torture—is strictly prohibited. While Islam permits the consumption of animals, it encourages that they be treated well and that their rights are respected throughout their lives. For instance, animals should not be used for entertainment or for sport, and the teachings of Islam promote the ethical treatment of animals.

**1.1.3. Jainism-** Jainism holds the highest regard for Ahimsa (non-violence) and extends this principle to all forms of life. Jains believe that all living beings, including animals, have a soul and should be treated with the utmost respect and compassion. Aparigraha (non-possessiveness) further extends to animals, as Jains advocate for minimizing harm in all actions. Strict vegetarianism is a common practice among Jains, rooted in the belief that harming animals through killing or consumption leads to negative karma. Jain monks, in particular, take vows to avoid causing harm to even the

smallest organisms, and the religion emphasizes protection against animal cruelty in all aspects of life, including trade, research, and entertainment.

**1.1.4. Buddhism-** Buddhism promotes Ahimsa (non-violence) as a key teaching, emphasizing that all sentient beings, including animals, are capable of suffering and deserve compassion. The Five Precepts of Buddhism instruct followers to refrain from killing any living being, including animals. The Dhammapada, a collection of Buddha's teachings, underscores that cruelty to animals results in bad karma, which affects the cycle of samsara (rebirth). Many Buddhists adopt vegetarianism as part of their practice, believing that refraining from meat consumption reduces harm to animals and prevents the accumulation of negative karma. Compassion towards animals is a cornerstone of Buddhist teachings, and Buddhists are encouraged to practice kindness and avoid any action that causes suffering to animals.

**1.1.5. Christianity-** Christianity teaches that all creatures are part of God's creation and are deserving of respect. In the Bible, particularly in the Book of Genesis, it is stated that humans are entrusted with the care of animals, but this should be done with stewardship and not abuse. Christians are called to be compassionate towards animals, with many Biblical passages emphasizing the love for all creatures. St. Francis of Assisi,

the patron saint of animals, is an iconic figure in Christianity who is known for his deep compassion and care for animals. Although Christianity historically allowed the use of animals for food and labor, modern interpretations often emphasize humane treatment and advocate for reducing animal suffering. Many Christian denominations now support vegetarianism and ethical treatment of animals as a moral responsibility.

**1.1.6. Sikhism-** Sikhism emphasizes the equality of all living beings, and the principle of Ahimsa (non-violence) is central to Sikh teachings. Sikhs believe that all living creatures are manifestations of God's creation and must be treated with respect and kindness. The Guru Granth Sahib, the central religious scripture of Sikhism, teaches that harm to animals is a form of violence that is inconsistent with spiritual growth. Langar, the communal kitchen, is a practice within Sikhism that promotes vegetarianism, as it is seen as a way to avoid harming animals. Sikhs are encouraged to avoid cruelty to animals and to respect all forms of life, reflecting the interconnectedness of all beings.

## **2. TYPES OF ANIMAL ABUSE**

The issue of animal abuse is one that often goes unnoticed or is dismissed as a minor concern. Yet, beneath the surface lies a troubling reality that affects millions of animals worldwide. From the quiet suffering of neglected pets to the horrific violence in illegal animal fights, the abuse animals face is a dark testament to humanity's capacity for cruelty. Whether it's the exploitation of animals in research laboratories, the physical abuse suffered at the hands of their owners, or the horrors they endure as part of ritualistic practices, animal cruelty takes on many forms, all of which inflict unimaginable pain and suffering on innocent creatures. But why does this abuse persist in a society that claims to value compassion, justice, and morality? To understand this complex issue, it's essential to recognize the different types of animal abuse, each one revealing a disturbing aspect of our relationship with animals. Only through awareness, education, and action can we hope to create a world where animals are treated with the respect and dignity they deserve.

Here are the various forms of animal abuse that are prevalent in society:

### **2.1 Sexual Abuse (Bestiality)**

The sexual intercourse between a human and a animal is basically termed as bestiality. These days, horrifying and upsetting incidents

of animal wrath frequently make headlines . This shows that there is a clear proof to the fact that the human community is gradually moving towards inhumanity.

## **2.2 Physical Abuse**

Violence inflicted upon the animals is absolutely intentional. The goal is to inflict tremendous agony, profound wounds, and psychological distress on the animal. Numerous behaviors, including kicking, beating, stabbing, starving, etc. are examples of domestic abuse

## **2.3 Organized Animal Abuse**

Organized animal abuse includes the practice of animal combat, such as dog, bull, and cock fighting, which is mostly done for amusement. It is a staged fight in which animals are ready to engage in extremely violent and aggressive combat with one another. Animals ultimately either die or suffer severe injuries.

## **2.4 Laboratory Testing**

Despite how difficult it may be to accept, every thing we use, wear, or carry is initially experimented on animals. Humans are not the same as animals. Different product types cause their bodies to react in entirely different ways, which can be quite unpleasant and

hazardous. Millions of animals undergo such cruel product testing every year, in which dangerous medications and chemicals are rubbed over their skin, sprayed into their eyes, or dripping into their throats. As a result of which they endure a great deal of pain, suffering, and discomfort. Animals are abused both mentally and physically while being caged. Unfortunately, most of these creatures' therefore give up their lives while screaming in agony.

## **2.5 Simple Neglect**

Simple neglect occurs when an animal's basic needs—such as access to water, food, shelter, or veterinary treatment—are not met due to the ignorance or carelessness of the owner. A common example of this is when dog owners chain their pets without a proper collar or leash, leaving them confined in a backyard for extended periods without adequate food, water, or shelter. Such neglect can lead to physical and psychological suffering for the animal, highlighting the importance of responsible pet ownership.

## **2.6 Gross Neglect**

Withholding food or water from an animal or group of animals is basically an intentional act done by humans. Another name for it is willful, malevolent, or callous neglect . An example of this is people throwing away their sick dogs callously.

## **2.7 Animal Hoarding**

Animal hoarding involves the collection of a large number of animals, often beyond the ability of the owner to provide adequate care. This typically results in the failure to meet even the most basic standards of nutrition, sanitation, and veterinary care. In many cases, hoarders may unintentionally neglect the animals' needs due to the overwhelming number of animals they are responsible for. Additionally, the transportation of large groups of animals in an inhumane manner, where they are overcrowded or poorly handled, is another common manifestation of animal hoarding. This practice often leads to severe physical and emotional harm to the animals involved.

## **2.8 Ritualistic Abuse**

Ritualistic abuse refers to the practice of killing or sacrificing animals as part of religious ceremonies or to appease deities. In some cultures, and religions, such practices have been long-standing traditions, deeply rooted in history and spiritual beliefs. These rituals often involve inflicting extreme cruelty on animals, sometimes in public settings, and are often tied to festivals or sacred events.



For example, certain temples in India have been historically known for animal sacrifices, where goats, chickens, and other animals are slaughtered as offerings to deities. The most infamous of such practices can be seen in temples like the Kalighat Temple in Kolkata, where animal sacrifices have been part of religious rituals for centuries. Similarly, during festivals like Makar Sankranti and Durga Puja, some regions in India have witnessed animal sacrifices performed in the name of appeasing gods, despite growing opposition and legal restrictions. The most disturbing forms of ritualistic abuse include instances where animals are subjected to horrifying acts, such as a cat being nailed to a crucifix and set on fire, or the head of a dog being left on the steps of a building with curses written on it. These practices are not only cruel but also violate the animal's fundamental right to life and dignity.

Historically, these rituals were believed to bring prosperity, good health, and protection to communities, often linked to ancient beliefs in animism and the power of sacrifices to appease higher powers. However, in modern times, many of these practices have been challenged and condemned by animal rights activists and reformers, who advocate for the protection of animals from needless suffering, irrespective of religious or cultural traditions. While some temples have ceased such

practices due to legal pressure and changing societal values, others continue to conduct these rituals, despite growing public concern<sup>72</sup>.

### **3. LEGISLATIONS REGARDING ANIMAL WELFARE IN INDIA**

Animal cruelty is a pervasive issue that impacts the well-being of countless animals across the world, manifesting in various forms such as neglect, abuse, exploitation, and torture. The lack of effective legal protections leaves animals vulnerable to mistreatment, often with no recourse for justice. As societies evolve, the moral obligation to protect sentient beings from harm becomes increasingly evident. Laws are essential not only to prevent animal cruelty but also to promote a shift in societal attitudes towards animals, recognizing them as deserving of care, compassion, and respect. Without proper legal frameworks in place, instances of animal abuse would continue unchecked, further exacerbating the suffering of countless creatures. Therefore, robust legal provisions are necessary to safeguard animals, ensure accountability for perpetrators, and foster a more humane society.

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<sup>72</sup> Animal Cruelty: A Review, ResearchGate, [https://www.researchgate.net/publication/258342070\\_Animal\\_Cruelty\\_A\\_Review](https://www.researchgate.net/publication/258342070_Animal_Cruelty_A_Review) (last visited Mar. 25, 2025).

### 3.1. The Prevention of Cruelty to Animals Act, 1960:

The Prevention of Cruelty to Animals Act , 1960<sup>73</sup> ( herein after PCA) empowers the animal welfare workers, the law enforcement agencies and citizens who have deep care and love for the animals to take actions against the culprits. Section 11 of PCA Act , 1960 deals with various forms of cruelties and monstrosity committed on the animals. This section has 16 sub – sections. Following are the categories of offences under Section 11 :

**Section 11 (1) (a) :** This section addresses the infliction of suffering, pain, or injury to an animal. It includes acts that subject animals to intolerable pain and suffering, such as beating, stabbing, or other forms of physical abuse, which cause undue distress and harm to their well-being.

**Section 11 (1) (b) :** Here any person who employs any unfit animals like a sick, infirm or wounded animals to work or labour is held to be committing an offence.

**Section 11 (1) (c) :** Willingly and unreasonably administering injurious drug and other harmful substance to any domestic or captive animals, for instance, injecting **Oxytocin** on cows and buffaloes for increased milk production by dairymen.

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<sup>73</sup> The Prevention of Cruelty to Animals Act, No. 59 of 1960, India Code (1960).

**Section 11 (1) (d) :** Transportation of animals should not be in a manner where the animals are going through a lot of pain. According to the PCA ACT, 1960, only 6 adult cattle can be carried in a lorry and not more than 10 cattle in a goods wagon.

**Section 11 (1) (e) :** Keeping any animal in a cage or a place where their movements are confined and do not have enough movement to even move.

**Section 11 (1) (f) :** It is against the law to confine any animal with hefty chords or chains.

**Section 11 (1) (g) :** Keeping a pet animal chained habitually, not giving them enough and not taking them for a walk is an offence. Also not providing them enough opportunity for exercise.

**Section 11 (1) (h) :** Failure to provide with food, drink and shelter to the animals by their owners.

**Section 11 (1) (i) :** Inflicting pain and suffering to the animal by abandoning them is an offence.

**Section 11 (1) (j) :** Leaving their pet on the street to roam freely if their pet is suffering from contagious infection or disease .

Also leaving them or abandoning them on the street if their pet are old aged , disabled or sick.

**Section 11 (1) (k) :** Offering any animal for sale if it is in agony as a result of maltreatment, malnutrition, dehydration, overpopulation, or other conditions.

**Section 11 (1) (l) :** Performance activities like mutilating or killing any animal using methods like **strychnine** injection.

**Section 11 (1) ( m) :** It is an offence to use any animal for entertainment purposes or for using them as a bait.

**Section 11 (1) (n) :** It prohibits people to organise animal fights and also prevents them from collecting money from the spectators.

**Section 11 (1) (o) :** It is illegal to take part in events where animals are released from captivity and where the people will have to shoot them . No human is allowed to promote or take part in any shooting competition that involves animals<sup>74</sup>.

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<sup>74</sup> India Code, The Prevention of Cruelty to Animals Act, 1960,  
[https://www.indiacode.nic.in/bitstream/123456789/11237/1/the\\_prevention\\_of\\_cruelty\\_to\\_animals\\_act%2C\\_1960.pdf](https://www.indiacode.nic.in/bitstream/123456789/11237/1/the_prevention_of_cruelty_to_animals_act%2C_1960.pdf).

Offences committed under Section 11 are cognizable, where the offenders can be arrested only after an arrest warrant from the Judicial Officer. However, offenses committed under Section 11 sub- section 11 clause (1) (n) and (o), the police can arrest the culprit without any warrant<sup>75</sup>.

**Section 12:** The practice of **Phooka** is prohibited under this section. Phooka refers to the harmful practice where drugs or other harmful substances are injected into the bodies of cows or other cattle to stimulate better lactation. This practice is banned due to the severe pain and harm it causes to the animals, which can lead to long-term health issues and suffering. The prohibition aims to protect animals from unnecessary suffering and ensure their well-being<sup>76</sup>.

**Section 13:** The court can order the destruction of any animal, if any pet owner is found convicted under any provisions of Section 11 and that the court feels that it would be cruel enough to keep that animal alive. Without causing anymore unreasonable harm and pain, the animal is destroyed by a person who is assigned to do the task. During the destruction process if any expenses has occurred than the owner has to pay for it as a

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<sup>75</sup> iPleaders Blog, Punishment for Animal Cruelty and Laws for Animal Welfare in India, <https://blog.ipleaders.in/punishment-animal-cruelty-laws-animal-welfare-india/>.

<sup>76</sup>Prevention of Cruelty to Animals Act, 1960, § 12, No. 59, Acts of Parliament, 1960 (India).

fine. The destruction is taken place so that the already harmed animal is not harmed anymore and because that animal cannot recover from the injury or disease<sup>77</sup>.

**Section 14:** Unlawful practices such as product testing and laboratory experiments are band. India was the first country in South Asia to ban cosmetic animal testing . A confirmation has been made by the Bureau of Indian Standards of the removal of animal testing by the cosmetic brands. Permission shall be granted to a manufacturer only if he adherer's to the BIS non – animal testing standards<sup>78</sup>.

**Section 148 (c) of Drugs and Cosmetic Rules, 1945-**Animal testing for cosmetic purposes is prohibited nationwide<sup>79</sup>.

**Section 135 (b)of Drugs and Cosmetic Rules , 1945 –** Cosmetic products that undergo animal testing overseas have been prohibited in the nation<sup>80</sup>.

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<sup>77</sup> Prevention of Cruelty to Animals Act, 1960, § 13, No. 59, Acts of Parliament, 1960 (India).

<sup>78</sup> Prevention of Cruelty to Animals Act, 1960, § 14, No. 59, Acts of Parliament, 1960 (India).

<sup>79</sup> Prevention of Cruelty to Animals Act, 1960, § 148(c), No. 59, Acts of Parliament, 1960 (India).

<sup>80</sup> Prevention of Cruelty to Animals Act, 1960, § 135(b), No. 59, Acts of Parliament, 1960 (India).

### 3.2. In the Constitution of India, 1950:

In the Constitution of India, 1950<sup>81</sup>, several provisions underline the importance of animal welfare and the protection of animals. These constitutional guidelines reflect the nation's commitment to fostering a compassionate relationship with animals and eliminating inhumane practices.

**Article 48**– Lays down guidelines to get rid of old traditional practices and adopt new modern and scientific methods for agriculture and animal husbandry. The practice of animal slaughtering has been banned under this article<sup>82</sup>.

**Article 51 A-** It lays down that the citizens must have feelings of compassion and love towards the animals<sup>83</sup>.

### 3.3. The Indian Penal Code, 1860:

The provisions in **Section 428**<sup>84</sup> and **Section 429**<sup>85</sup> of the Indian Penal Code, 1860<sup>86</sup> state that anyone who mistreats livestock or animals with the intent to kill, maim, poison, or otherwise injure them faces a fine,

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<sup>81</sup> Constitution of India, 1949, No. 10, Acts of Parliament, 1949 (India).

<sup>82</sup> Constitution of India, art. 48, 1950, No. 10, Acts of Parliament, 1950 (India).

<sup>83</sup> Constitution of India, art. 51A, 1950, No. 10, Acts of Parliament, 1950 (India).

<sup>84</sup> Indian Penal Code, 1860, § 428, No. 45, Acts of Parliament, 1860 (India).

<sup>85</sup> Indian Penal Code, 1860, § 429, No. 45, Acts of Parliament, 1860 (India).

<sup>86</sup> Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India).



imprisonment for up to 5 years, or both. Furthermore, **Section 377** criminalizes sexual contact between a man and an animal, which is a punishable offense and is non-bailable. The BNS (Bharatiya Nari Shakti) also supports the enforcement of such provisions to ensure animal protection and the implementation of laws to prevent cruelty<sup>87</sup>.

### **3.4. The Wild Life Protection Act, 1972:**

**Section 9** of the Wild Life Protection Act, 1972<sup>88</sup>, states that schedule I, II, and III of the Act makes hunting of any wild animals illegal and prohibited<sup>89</sup>.

**Section 38 (j)** of the Wild Life Protection Act, 1972, states that Law enforcement will take legal action against anyone who mocks, harms, molests or otherwise disturbs any zoo animal<sup>90</sup>.

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<sup>87</sup> Legodesk, Animal Laws in India, <https://legodesk.com/legopedia/animal-laws-in-india/#:~:text=IPC%20Sections%20428%20and%20429,-The%20IPC%20section&text=For%20such%20offenses%2C%20the%20punishment,of%20fifty%20rupees%20and%20upwards.>

<sup>88</sup> Wildlife Protection Act, 1972, No. 53, Acts of Parliament, 1972 (India).

<sup>89</sup> Wildlife Protection Act, 1972, § 9, No. 53, Acts of Parliament, 1972 (India).

<sup>90</sup> Wildlife Protection Act, 1972, § 38(j), No. 53, Acts of Parliament, 1972 (India).

## 4. DEPRAVED RELIGIOUS CUSTOMS

### 4.1. Gadhimai Festival, Nepal

At the Gadhimai temple in Nepal's Bara district, one of the biggest animal sacrifices in the world is believed to be performed. It is held once in every five year. In two days at least 5,00,000 innocent animals are in humanely slaughtered. One of the most brutal methods of killing animals is mass sacrifice, in which the animals are brutally beheaded multiple times, resulting in a slow and agonizing death. Devotees sacrifice thousands of animals, including buffaloes, goats, and chickens, to honour the hindu goddesses Gadhimai in hopes of gaining blessings and good fortune. The Gadhimai goddess's devotees believe that letting blood flow would appease her and release the people from their sins, evil actions, range, etc. Panic stricken and frightened the buffalo calves look at their mothers, while they are slaughtered in front of them<sup>91</sup>.

In general, thousands of pilgrims are attracted to the festival, where they either themselves participate in the event or are the witness of the sacrifice. An official ban on animal sacrifice and slaughter was

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<sup>91</sup> Animal Equality UK, Animal Equality Documents Mass Animal Sacrifice at Nepal's Gadhimai Festival, [https://animalequality.org.uk/news/animal-equality-documents-mass-animal-sacrifice-at-nepals-gadhimai-festival/?utm\\_source=chatgpt.com](https://animalequality.org.uk/news/animal-equality-documents-mass-animal-sacrifice-at-nepals-gadhimai-festival/?utm_source=chatgpt.com).

imposed by the Gadhimai Temple Trust in 2015. The practice has remained in vogue despite several efforts to ban the sacrifice or reduce it, highlighting the cultural challenges<sup>92</sup>.

## **4.2. The Yulin Dog Meat Festival**

Yulin, a city of China celebrates this event which is annually held for 10 days. People slaughter around 10,000 dogs and eat them during this festival. Other animals like cats and leeches are also found in this festival. This festival, which began in 2009, is followed by the people as a custom, who believe that consuming dogs during the highly seasoned time of the year will bring them health benefits, good luck and happiness. The people of China do not consider eating dogs as immoral, hence they do not feel that they are inflicting cruelty on the dogs<sup>93</sup>.

Every year approximately 10 – 20 million dogs are killed for their consumption. Various controversies have been made for this festival as the innocent dogs are inhumanly slaughtered and are put up for sale. Organizers argue that the festival is a part of local tradition,

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<sup>92</sup> Time, Gadhimai Festival: Hindu Temple Animal Sacrifice in Nepal Faces Scrutiny, [https://time.com/7200252/gadhimai-festival-hindu-temple-animal-sacrifice-nepal-india-courts-activists/?utm\\_source=chatgpt.com](https://time.com/7200252/gadhimai-festival-hindu-temple-animal-sacrifice-nepal-india-courts-activists/?utm_source=chatgpt.com).

<sup>93</sup> Asia for Animals, Yulin Dog Meat Festival, <https://www.asiaforanimals.com/yulin>.

that is why no ban has been imposed on the festival and the Yulin Municipality claims that it is difficult not to celebrate this festival<sup>94</sup>.

### **4.3. Nem Thoung Pig Slaughter Festival**

This is a festival where pigs are paraded annually, which is celebrated every lunar year in the northern village of Nem Thoung, in the Bac Ninh province of Vietnam. It is an old tradition which has been going on for almost 800 years. The painted pigs are paraded through the village, symbolizing prosperity, which are later brutally slaughtered by the executioners. The blood of the killed pigs are then sprinkled on the faces of the onlookers for luck and blessing for the upcoming year. Not only this, people here also believe that the money should be dipped in the blood for wealth and good luck<sup>95</sup>. As this festival is a symbol of local heritage for some communities it is still carried out in private, despite the fact that the Vietnamese Ministry has initiated to declare the cease of such festivals<sup>96</sup>.

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<sup>94</sup> Humane Society International, Yulin Dog Meat Festival, China, <https://www.hsi.org/news-resources/yulin-dog-meat-festival-china/>.

<sup>95</sup> BBC, [https://www.bbc.com/news/blogs-news-from-elsewhere-34549660?utm\\_source=chatgpt.com](https://www.bbc.com/news/blogs-news-from-elsewhere-34549660?utm_source=chatgpt.com).

<sup>96</sup> Animals Asia, Five Things You Need to Know About the Nem Thuong Pig Slaughter Festival, <https://www.animalsasia.org/uk/media/news/news-archive/five-things-you-need-to-know-about-the-nem-thuong-pig-slaughter-festival.html>.

#### **4.4. Grindadráp ( Pilot Whale Hunt ), Faroe Islands, Denmark**

About 800 pilot whales are slaughtered each summer in the Denmark Faroe Islands' Torshavn harbours. People in the Faroe Islands are said to naturally eat whale meat and blubber. This illegal and unsustainable hunting results in the annual death of 100,000 dolphins and small whales. The fishermen split open the whales' necks with spinal lace, causing serious spinal cord injuries that kill the animals in a span of few seconds. The whales are brutally slaughtered, and the killing causes the sea to turn red. The pilot whales are pursued and harassed during the five-hour hunt. None of the group is spared in the hunt, not even the young baby whales or the pregnant whales<sup>97</sup>.

Worldwide outrage has been caused after people seeing the images of blood-filled waters. The people of Denmark till date sees this as a tradition. Such practices are not observed as a way of inhumanity and cruelty that brings sufferings to the innocent creatures<sup>98</sup>.

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<sup>97</sup> Sea Shepherd Conservation Society,  
<https://seashepherd.org/2024/04/17/stopthegrind/> .

<sup>98</sup> Malaika Magazine, Blood in the Water, Food on the Table, Protestors on the Shore,  
<https://hakaimagazine.com/features/blood-in-the-water-food-on-the-table-protestors-on-the-shore/>.

#### **4.5. Kots Kaal Pato, Mexico**

Kots Kaal Pato is a festival which has been celebrated in the village of Citilcum, Mexico. The people here are involved in the killing of animals, particularly ducks, where they tie the ducks up and beat them until they are dead. It was a festival which was meant to honor local cultural traditions. Also animals were tied and hung from structures as part of the event. Such traditions or practices garnered widespread condemnation, sparking vehement criticism worldwide<sup>99</sup>.

#### **4.6. Horse Tripping, Mexico and the United States**

Some charreada (Mexican rodeo) events include horse tripping, in which riders chase horses and rope their legs, causing the animals to stumble and fall. Popular in some rural areas, the activity is meant to demonstrate the charro's ability to control and subdue a horse quickly. The skill involved in horse tripping is the precision and timing required to lasso the legs of a moving horse. This requires the rider to anticipate the horse's movements and rope its legs with enough accuracy and force to bring it to the ground, all while maintaining control over the animal. It is viewed as a demonstration of riding, roping, and quick reflexes.

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<sup>99</sup> Humane Society of the United States, Mexico City Moves to Ban Bullfighting, <https://www.humanesociety.org/blog/mexico-city-moves-ban-bullfighting>.

The animals frequently sustain injuries from horse tripping, such as broken legs and other damage. Several U.S. states have banned it as a result of campaigns against it by animal protection organizations. Notwithstanding stringent prohibitions, the persistence of animal abuse, such as horse tripping, deeply entrenched in regional customs and traditions, underscores the formidable challenges inherent in eradicating such deep-rooted practices<sup>100</sup>.

## **5. LANDMARK JUDGMENTS**

Over the years, the Indian judiciary has played a pivotal role in shaping the framework for animal welfare in the country. Through landmark judgments, the courts have not only interpreted existing laws but have also set precedents to guide future legislation and actions concerning the protection of animals. These judgments reflect a growing recognition of the importance of safeguarding animal rights and ensuring their well-being in the face of human activities that often result in harm. As society becomes increasingly aware of the need for compassion and ethical treatment of animals, these rulings stand as milestones in the ongoing battle for animal rights. The following cases highlight significant decisions made by the Supreme Court of India and

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<sup>100</sup> American Veterinary Medical Association, Horse Tripping: New Welfare Concern, <https://www.avma.org/javma-news/2014-06-01/horse-tripping-new-welfare-concern>.

other courts, which have helped strengthen legal protections for animals in the country.

***5.1. Animal Welfare Board of India v. A. Nagaraja & Ors. (2014)<sup>101</sup>:***

Jallikattu is an event celebrated in India where bulls are tamed. A large number of people participate in this event leading to the death of many participants. Here, the bull was subjected to a variety of mistreatment and disregard.

In 2014, a case was filled by the Animal Welfare Board of India (AWBI)<sup>102</sup> against a deceased participants father, which was heard by Justice Pinaki Chandra Ghose and Justice K.S. Radhakrishnan. The claimant stated that, although Jallikattu events was following all the guidelines of the Tamil Nadu Jallikattu Regulations (TNJ) Act, 2009<sup>103</sup>, the bulls were still getting abused ad were suffering from pain. Which was violating the Prevention of Cruelty to Animals (PCA) Act, 1960. The respondent argued stating that the event had a historical significance and that the event could be continued under the TNJ Act.

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<sup>101</sup> Animal Welfare Board of India v. A. Nagaraja & Ors., (2014) 7 SCC 547.

<sup>102</sup> Animal Welfare Board of India, established under the Prevention of Cruelty to Animals Act, 1960, No. 59, Acts of Parliament, 1960 (India).

<sup>103</sup> Tamil Nadu Animal Welfare Act, 2009, No. 22 of 2009 (Tamil Nadu).



The judgement was in the favor of the AWBI and instructions were given to the parliament to raise the animal right. Because the PCA Act protects animals' rights, the AWBI and the government were instructed to take action to stop needless pain or suffering from being inflicted on animals<sup>104</sup>.

**5.2. *Animal Welfare Board of India v. People for Elimination of Stray Troubles & Ors. (2009)*<sup>105</sup>:**

The Supreme Court of India has firmly maintained in its historic ruling that the modified Animal Birth Control (ABC) Rules of 2023 and the national Prevention of Cruelty to Animals (PCA) Act of 1960 supersede any conflicting state and local laws. This case dealt with the stray dog culling in Kerala. The Supreme Court affirmed that killing stray dogs for the management of their population was vicious and inefficacious.

The court rather, pointed out the importance of immunization and the initiatives in controlling the huge number of stray dogs through sterilization. The judgement emphasized that the problem between the animals and the humans must be sought through human and scientific methods.

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<sup>104</sup> Animal Welfare Board of India v. A. Nagaraja & Ors., (2014) 7 SCC 547.

<sup>105</sup> Animal Welfare Board of India v. People for Elimination of Stray Troubles & Ors., (2009) 10 SCC 1.

The Supreme Court has stated that the governing legislation requires a progressive, welfare-oriented solution that provides these creatures with the dignity they deserve as domesticated companions, even though the "dog haters" may challenge these regulations<sup>106</sup>.

### **5.3. *Gauri Maulekhi v. Union of India & Ors. (2014)*<sup>107</sup>:**

The imported cosmetics which had undergone animal testing was prohibited by the Supreme Court of India in the landmark case *Gauri Maulekhi vs Union of India & Ors. (2014)*.

The plaintiff, Gauri Maulekhi, an animal rights activist, asserted against the cruelty involving the use of animals for cosmetic testing, emphasizing the availability of cruelty-free substitutes. The Court's ruling highlighted the requirement for the cosmetics industry to foster ethical practices and as well as supported the international initiatives who aimed at ending animal testing in this sector. There was a significant advancement in animal welfare laws in India after the decision was marked as well as this decision demonstrated the country's commitment to promoting humane treatment of animals.

The Court gave a statement which highlighted the urgency to foster ethical practices to be adopted by the cosmetics industry. The Court

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<sup>106</sup> Animal Welfare Board of India v. People for Elimination of Stray Troubles & Ors., (2009) 10 SCC 1.

<sup>107</sup> Gauri Maulekhi v. Union of India & Ors., (2014) 7 SCC 507.

also supported the international initiatives who aimed at finishing the animal testing in the cosmetics sector. There was a notable development in animal welfare laws in India after the commitment. The stated decision by the Court denoted the country's devotion to promote compassionate treatment of animals<sup>108</sup>.

#### **5.4. *Centre for Environment Law v. Union of India (2013)*<sup>109</sup>:**

In *Centre of Environment Law vs Union of India* made a judgement on censorious wildlife preservation and habitat conservation. This case associated with the rights of endangered species and the responsibility of the government to preserve national parks and sanctuaries. The Court highlighted the necessity to observe and impose animal protection law and ordered rigorous steps to stop poaching and encroachment within preserved areas. The Court also stated the significance of conserving biodiversity without any human interference. Additionally, addressed the execution of stringent rules and regulations to avert habitat extinction and encourage sustainable environmental practices, thereby strengthening India's dedication to preservation efforts<sup>110</sup>.

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<sup>108</sup> Gauri Maulekhi v. Union of India & Ors., (2014) 7 SCC 507.

<sup>109</sup> Centre for Environment Law v. Union of India, (2013) 8 SCC 235.

<sup>110</sup> Centre for Environment Law v. Union of India, (2013) 8 SCC 235.

## **6. CONCLUSION AND SUGGESTIONS**

Animal cruelty is a serious ethical violation that not only reflects a flaw in society but also undermines our collective identity as humans. The growing incidents of animal abuse call for urgent action, as animals are sentient beings capable of experiencing pain and deserve our compassion and protection.

To combat animal cruelty, a holistic approach is necessary. This includes strict law enforcement to ensure that existing animal welfare laws are rigorously applied, alongside public awareness campaigns to educate people about the importance of treating animals humanely.

A cultural shift towards empathy and respect for animals is essential. Individuals can contribute by adopting animals from shelters, choosing cruelty-free products, and opposing practices that harm animals. Governments and organizations must implement stronger regulations and monitor industries that use animals, such as agriculture, entertainment, and cosmetics.

Furthermore, community programs aimed at educating people on proper animal care can help reduce neglect and abandonment.

Ultimately, the fight against animal cruelty reflects our humanity. By promoting animal welfare, we contribute to a society built on

compassion and respect for all living beings. Through collective efforts, we can create a world where animals are treated with dignity and kindness. Let us all stand up as the voice for those who cannot speak for themselves.



# **SHORT ARTICLE**



# **AN IMPLEMENTATION OF THE STATEMENT “JUSTICE DELAYED IS USTICE DENIED”– A STUDY WITH REFERENCE TO RG KAR MEDICAL COLLEGE MURDER CASE**



*-Kumari Mamta<sup>111</sup>*

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## **ABSTRACT**

*A recent report by National Crime Records Bureau (NCRB) revealed*

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*that the crime against women has risen with 4,45,256 cases reported in 2022, which means 51 cases per hour. Despite tougher penalties and changes made in the criminal system, the number of cases against women remains so high. There are many existing laws for the safety of women in India, like Prevention of sexual harassment Act, 2013, Protection of women from domestic violence act, 2005 and many more. We also have the provision related to offenses against women under chapter -V BNS, 2023. On 9th August, Thursday a 31-year-old post-graduate trainee doctor at RG Kar Medical College who was on duty for 36 hours was found dead in semi-naked condition in the seminar hall of the hospital. The medical report states multiple injuries, marks suggesting a violent, brutal rape and murder. The FIR was also registered after 14 hours. The brutality of the sexual harassment and the nature of the crime has shocked the consciousness of the nation. Following the incident, protest was called by the doctors, students and the civic group across the country. This article aims to critically examine the provision related to women safety with special reference to rape cases in India focusing on RG Kar Medical College.*

**KEYWORDS:** *Justice, Judicial system, Sexual harassment, Women safety, rape.*



# 1. INTRODUCTION

Justice means to give each and every person the rights that they deserve. The concept of justice evolves in old civilization society. The word justice came from the Latin word ‘JUSTITIA’ which signifies righteousness and equality<sup>112</sup>. Justice can be attained by interpretation and implementation of laws in the society. We can’t determine the exact definition of justice; it evolves from time to time and people to people in every society. A society can’t exist without the presence of justice, which is an important pillar of the nation. We can see in preamble also that justice means all citizens of India should be given socio-economic and political justice. For some it could be economic justice which means there should be equal distribution of wages and equal contribution in taxes. For others it can be justice based on social factors like indiscrimination based on caste or gender equality etc. And for some it may be political justice like equal and merit-based opportunity in jobs and education. This can lead to differences in social and physical systems. The Preamble also provides the liberty of thoughts, expression, belief, faith and worship. The principle of natural justice implies fairness, reasonableness, equity and equality. These principles are also considered to be fundamental to rule of law and are an important part of the constitution of India.

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<sup>112</sup> Black’s Law Dictionary (10th ed. 2014).

## 2. MEANING

**Justice delayed is justice denied** is a legal phrase that means that if the legal equitable relief to an injured party is available , but it's mostly delayed so it denies an individual to take advantage of the laws and protection provided by the government. William Ewart Gladstone <sup>113</sup>famously said ‘justice delayed is justice denied’. However, he was not the first one to use this phrase and it's arguable that its meaning has different aspects . Delayed in judgement means delay in justice which has no relief or remedy at all. In India changes are more important in the judicial system, as it was observed in 2018, by chief justice of India , Ranjan Gangoi that over 1000 cases are pending in court for 50 years and more than 2 lakh cases for 25 years. It was also mentioned that there are 90 lakh pending civil cases, amongst which 20 lakh are such even summons have not been served yet.<sup>114</sup>

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<sup>113</sup> William E. Gladstone, Former British Prime Minister (1868–1894).

<sup>114</sup> Legodesk, <https://legodesk.com>.

### **3. SOME DELAYED JUDGEMENT AND ITS IMPACT**

#### ***3.1. Hasimpura Massacre Case, 1987<sup>115</sup>***

A case of a massacre where 42 Muslim were brutally killed in Hastinapur. The incident of ‘target killing’ that took place in 1987 decided the fate of the victim in 2018; 31 years after the incident. The case was decided in 2018 by the supreme court after an appeal was preferred by the victim’s family.

#### ***3.2. Bhopal Gas Tragedy, 1984<sup>116</sup>***

An industrial upheaval that shook the base of the nation. The accident was the result of a leak of MIC (Methyl Isocyanate) in a factory in Bhopal in which nearly 5 lakh people were affected. This can be a case that can be considered where even proper justice was not guaranteed as the amount of compensation was not up to the pain suffered due to tragedy. The verdict was passed after 26 years of the tragedy in 2010.

#### ***3.3. Nirbhaya Gang rape Case, 2012<sup>117</sup>***

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<sup>115</sup> Zulfikar Nasir & Ors Vs. State of Uttar Pradesh & Ors, CRL.A. 574/2025 & Crl. M.A. No. 8003/2015.

<sup>116</sup> Union Carbide Corporation V. Union of India, 1992 AIR 248, 1991 SCR Supl.(1) 251.

<sup>117</sup> Mukesh & Anr. Vs. State for NCT of Delhi & Ors, AIR 2017 SC 2161.

The brutal gangrape and murder of a 23-year-old medical student in Delhi in 2012 is one of the most infamous cases of violence against women in India. The trial for the case took 7 years to complete and the judgement was given in 2020 that all four convicts were finally executed. The delay in justice for the victim led to widespread protests and criticism of the Indian legal system.

### ***3.4. Babri Masjid Demolition Case ,1992<sup>118</sup>***

The demolition of the Babri Masjid mosque in Ayodhya, Uttar Pradesh in 1992 sparked communal riots in several parts of India and led to a prolonged legal battle. The case was finally resolved in 2020. The long delay in resolving the case and the subsequent unrest it caused has been a source of controversy in India.

## **4. HIDDEN FACTORS THAT SLOW OUR COURTS**

- 4.1. Corruption in Indian judiciary: This can be one of the reasons for delayed justice, as the corrupted judge may delay in giving judgement or will favor one party whether right or wrong.
- 4.2. Lack of manpower: The judges are pressurized by the load of litigation; there is a requirement for more people for speedy justice.

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<sup>118</sup> M. Siddiq (D) Thr Lrs Vs. Mahant Suresh Das & Ors., Civil Appeal Nos 10866-10867 of 2010.

4.3.Complex judicial system: The case will be filled in lower courts than in upper court; new argument , evidence, and witness arises. The dates are given after an interval of a long time, sometimes a year. Sometimes trials happen in the same year , sometimes decades pass. So it takes a lot of time to deliver justice.

4.4.Lack of transparency – There is a lack of transparency in the Indian judicial system. The appointment of judges is done by the collegium system as held in three judges' cases and the bench in the Supreme Court is allotted by the chief justice of India.

As in recent times, the right of speedy justice has been declared a fundamental right. It comes under the preview of Article -21, right to life and personal liberty. Speedy justice is *sine quo non* <sup>119</sup>of criminal jurisprudence. Speedy justice basically means that there should not be unnecessary delay in trials and judgement. It doesn't mean the case should be solved within 24 hours, but will try to give justice as soon as possible. The Supreme Court ,while delivering its constitutional bench judgement in case of *Abdul Rehman Antutlay vs. R.S Nayak* <sup>120</sup> declared that the right to speedy trial is implicit in Article 21 of the constitution and thus it constitutes a fundamental right of an individual. Like in a victim case, seeking justice requires years of court

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<sup>119</sup> Black's Law Dictionary (11th ed. 2019).

<sup>120</sup> A.R. Antulay v. R.S. Nayak & Anr., 1988 AIR 1531.

appearances while in an accused situation spends years in jail waiting for trial. As everyone knows, an accused person is innocent until proven guilty. So here right to life and personal liberty is violated by delay in legal proceedings.

## **5. R.G KAR MEDICAL COLLEGE CASE**

On 9<sup>th</sup> August, Thursday, a 31-year-old postgraduate trainee doctor at RG Kar Medical College who was on duty for 36 hours was found dead in semi- naked condition in the seminar hall of the hospital. The medical report states multiple injuries and marks suggesting a violent, brutal rape and murder. The FIR was also registered after 14 hours. Widespread protests were held by the doctors association, medical student and the civic groups across the nation including a ‘reclaim the night’ campaign in Kolkata on 14 August, 2024. The Court issued suo motto cognizance<sup>121</sup> of the incident on 18 August 2024, despite the case pending before the Calcutta High Court. Meanwhile the crime bureau of investigation (CBI) started investigation as per the High Court’s direction.<sup>122</sup> As the evidence and witness were ruined, the CBI wasn’t able to find the strong witness or the main culprit. CBI informed the Supreme Court that it has filled a chargesheet on 7<sup>th</sup> October against

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<sup>121</sup> Black’s Law Dictionary (11th ed. 2019).

<sup>122</sup> Supreme Court Observer, <https://www.scobserver.in/>.

one accused named Sanjay Roy for the offences of rape and murder of doctor at RG Kar Medical College Hospital, Kolkata .<sup>123</sup> The bench of hon'ble Supreme Court stated that they had taken up the suo motto despite seasoned judges were dealing with the matter in high court because it is concerned of the members and the students in the medical profession at large. “ We are deeply concerned that there is a virtual absence of safety of work for the doctors in public hospitals,” the Chief said.<sup>124</sup>

## 6. CONCLUSION

As we can observe the current situation of the RG kar medical College Murder case, how justice is delayed and its questioning about the safety of women in the workplace. Despite many laws present in the legal system of India the women are not safe. Mahatma Gandhi famously said, “The day women can walk freely on roads that day we can say India has achieved independence.” The incident happened on 9th August and today is 28<sup>th</sup> October we can see how it's taking time to deliver justice to the victim and punish the culprits. There is a widespread fear among the women all over the country after this incident.

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<sup>123</sup> Live Law, <https://www.livelaw.in/>.

<sup>124</sup> D.Y. Chandrachud, Chief Justice of India.



# **BLOG**





# THE POWER TO PLAN YOUR FAMILY IS THE POWER TO PLAN YOUR FUTURE



- *Jiya Sah*<sup>125</sup>

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## 1. INTRODUCTION

India is one of the most overpopulated country in the world. overpopulation is a term used when the normal number of populations exceeds its limit and it arises the chaotic situation everywhere. According to 2021 census report Uttar Pradesh and Maharashtra is the

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most populated country I'm India. Reports says that Uttar Pradesh is the first most populated state in India and Maharashtra is second most populated state in India. Every public places are overcrowded in these states which causes a lot of problems.

## **2. PROBLEMS ARISING DUE TO OVERPOPULATION**

Overpopulation is most underrated problem in India because of this every single person of the state is facing one or the other problem in the country and this has became the topic of discussion now.

The city has become overcrowded , we see the chaos in every public places. Trains, buses, public parks, shopping malls and almost every public place is now going through the problem of overcrowding. Every time people have to face the situation of not getting seats on trains, buses and on other public vehicles. The city is overcrowded and it has been noted that on emergency situations there is lack of safety while travelling on a road because the patients sometimes die on the way to hospital as because of the lots of traffic on the road. On those emergency situation ambulance got stuck and patients who needs immediate medication loses their breath on the middle of traffic, such is the situation everywhere.

As we have seen the poor children's on the road and it is very heartbreaking that those kids have to beg on the streets for their survival and it happens because of the carelessness of their biological parents who throw their children's on roads and this type of situation occurs when the person does not have any knowledge about the family planning and he is not aware of sexology. These internal matters of the city is one of the main reason for overcrowding on the state.

Most of the individuals are unemployed and the reason behind it is the less government job seats are available for high-level professions and it is because of the overpopulation as the seats are not equivalent to the population so peoples are facing unemployment issues. Overcrowding causes a uncountable number of problems and it is one of them . One of the major problems is arising that overpopulation is leading to more pollution in the towns and cities. people can witness the rapid growing soil pollution as many fertile and vacant lands are converting into dumping ground and this is all because of overpopulation , another issue which has arisen that there is the shortage of drinking water in some states and the cause of this problem is water pollution. People throw disposable garbage on the river, seas and streams etc. because of which the water get polluted in such a way that sometimes it become impossible to use filtration method therefore, the crowd is facing the problem of lack of drinking water.

Although government had provided us the better government hospitals with good facilities but we cannot ignore the fact that the hospitals have also become unhygienic place for the patient as the hospitals are now overcrowded with peoples which is leading to deteriorating conditions day by day. The list of problem will go on and on but there are more problems which can be highlighted that some of the citizens are now homeless as there is the shortage of land and shelter for the peoples and the reason behind it is "overpopulation ".

### **3. CAUSES OF OVERPOPULATION**

There are numerous causes of overpopulation let me introduce you some of them : The major cause of the issue is higher illiteracy rates in India , a large number of populations is illiterate and it is leading to the growth of traditional cultures of giving prior attention to the male child who is consider as a dynasty grower . It is the ancestral beliefs of descendant through male child , while following those belief people neglect the importance of proper family planning and they keep on trying for the male child , this causes the problem of overpopulation . Lack of sex education in schools and colleges is one of the reasons for the problem . As many adults are not aware of sexology so they sometimes made mistakes as they are not have been previously taught

about the hormonal changes inside the human body.

## **MARRIAGE :**

Marriage is one of the major factors of overpopulation , in India there are some places where the male member of the family enjoys the dominion status over the family and at those places women are considered inferior to men, so most of the decisions are taken by the male member of the family by neglecting the opinions of females of the family.

In some places of India women of the society are being sexually abused under their marriage and those innocent women does not have any idea about how they can come out of these circumstances .women are controlled by the men in some places and they are being raped under their marriage. Those women do not take any action against their husband because they are afraid of slander and disgrace. This is one of the major factors of overpopulation in India.

Although till today it has not been considered as crime , to provide justice to the victims there is no such coded law had been introduced yet .

## **4. MEASURES TO CONTROL THE POPULATION**

The solution of overpopulation is to provide sex education to the youth and organize general awareness programs of family planning for the betterment of the society and certain laws such as bill no. 246 ( population control act, 2019 ) must be strictly followed by the people of the country in order to control the situation. Also, all the schools and colleges should provide sex education to the youth so that in future everything will be under controlled.

Another main measure to control the population is that the society needs to change their mentality about their ancestral beliefs of descendants through male child and should promote gender equality in the society . People really need to open up with new values and should not blindly follow the previous cultural beliefs of ancestors.

In my view point the citizens of the country should think about this matter seriously and they should be more open minded and intellectual and also cooperative towards each other for the betterment of future of the nation. And the government needs to introduce more strict laws in order to come out of these circumstances.