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Right to personal liberty under article 21 of the constitution of India: A General Analysis

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Abstract

The right to personal freedom enshrined in Article 21 of the Constitution of India is the fundamental pillar of the country's constitution. This law serves to protect against the decisions of the State and guarantees the dignity and freedom of the individual. This research article provides a comprehensive analysis of Article 21, revealing its historical development, legal interpretation and current significance. It addresses many aspects of personal liberty, including the right to life, privacy, and protection from incarceration. This article also examines the judicial decisions affecting the understanding and scope of Article 21, highlighting the nature of the fundamental right in India.

Keywords: personal, Analysis, constitution, General

Introduction

The right to personal freedom enshrined in Article 21 of the Constitution of India represents one of the most sacred and powerful aspects of the legal and social structure of the country. This law strengthens defense against crimes in the state and upholds the fundamental principles of personal dignity, freedom and independence. Throughout the process, there have been significant changes in the interpretation and application of Article 21, reflecting the changing nature of Indian society and the need for fairness and justice.

Research Objectives

This research paper is designed to provide a comprehensive analysis of the right to personal liberty under Article 21 of the Constitution of India. It aims to achieve the following objectives:

- Trace the historical development of Article 21 from its pre-Constitutional origins to its adoption by the Constitution.
- Examine the legal structure of Article 21, literature review and its relationship with other important laws.
- Explore various aspects of personal liberty, including the right to life, privacy, and protection from imprisonment.
- Examination of judicial decisions that help determine the understanding and scope of Article 21.
- Current challenges and conflicts regarding personal freedom are discussed in the context of Chapter 21.
- Provide an international perspective by comparing Article 21 with similar provisions in other laws and examining India's adherence to international human rights treaties.

Methodology

This research paper adopts a multidisciplinary approach utilizing legal analysis, historical research, comparative legal research and legal interpretation. It is based on basic concepts like the Constitution of India, Common Law and judicial decisions along with other sources like textbooks, books and articles.

Historical development of matter

1. Pre-Constitutional Period

The concept of human freedom and right to life has a deep history in India. In the pre-independence period, there were major social and political movements that emphasized the importance of individual rights and freedoms. Mahatma Gandhi, Jawaharlal Nehru and B.R. Ambedkar was an advocate of these rights and their contribution laid the foundation for the inclusion of Article 21 in the Indian Constitution.

Constituent Assembly Debate

The Constituent Assembly of India, which was tasked with creating the constitution of the country, had an extensive debate on the inclusion of fundamental rights in the constitution. The debate around Article 21 is characterized by debates about the importance of personal freedom, the prevention of state violence, and the necessity of establishing a just and humane life.

From Article 21

21. The article was approved on January 26, 1950 and became a part of the Constitution. It is incorporated in the Constitution to express Parliament's determination to uphold the sanctity of life and personal liberty as the essence of India's independence.

Constitutional structure of the article

1. Text Analysis

Article 21 of the Constitution of India states: "No person shall be deprived of life or personal liberty except as provided by law." These simple rules are determined by general decisions and create a wealth of jurisprudence that goes beyond the analysis of the text. That in accordance with the unchanging when at whatever time united states of america Administration is appeased that united states of america or some part thereof is frequented, or endangered accompanying, an eruption of some hazardous epidemic affliction, united states of america Administration, if it thinks that the common supplyings of the society temporary active are lacking for the purpose, can take, or demand or authorize one to take, aforementioned measures and, by sign, require aforementioned makeshift rules expected noticed by all or by one or class of humans as it be going to consider unavoidable for fear that the crash of specific ailment or the spread thereof, and grant permission decide in what conduct and by whom some expenses aroused (containing repayment if some) be going to be paid. That further capacity was awarded upon united states of america Administration by admitting to take measures and specify managing for the examination of guys going by railroad or alternatively, and the separation, in clinic, transitory reconciliation or alternatively, of women doubtful apiece examining deputy of being contaminated accompanying some aforementioned affliction.

That obviously in spite of the supplyings give the impression a not sharp reptile to tackle the issue but absolutely the short but précised supplying awards enough capacity in the help of State Administration to take security guarantee for fear that skilled is an epidemic. Still, a question arises either the supplying is only utter in the sound of deterrent measures but not guarding measures. This supplying further does not specify some light in engaging in the changeful character of the ailment and the part of united states of america in communicable steps opportunity to show up ruling all loose all along aforementioned infection and uprightly so as moment of truth when the regulation was accomplished manage not predict the changeful type of epidemics in the association. Additionally, the insensitivity to improve the only outmoded obsolete society search out blame.

That regardless of bearing allure shortage and short comings the pronounced Act, 1897 too put capacity in the hands of the Principal Administration under portion 2A that permits that when the Principal Administration is quenched that India or some part thereof is frequented, or endangered accompanying, an epidemic of some hazardous epidemic

affliction what the common supplyings of the society temporary active are lacking for fear that the flare-up of specific affliction or the spread thereof, the Principal Administration grant permission take measures and require managing for the check of some send or bowl leaving or visiting at some traffic in the domains at which point this Act longers and for specific confinement thereof, or of one determining to air within, or landing with, as can be essential. That in advancement to the alike a disciplinary supplying was too bent out accompanying a restricted attempt to form the society productive by sanction under portion 3 for one disobeying some requirement or order fashioned under this Act, 1897 the one be going to be considered to have dedicated an offence culpable under division 188 of the Aboriginal american Legal code (45 of 1860). Accordingly, in specific position of chaos it is a matter of excellent concern that an old piece of ruling was the only armament this country with its own government had to battle a hazard of aforementioned a towering danger that actually demands a surf-change in the Aboriginal american permissible foundation to create acceptable regulations accompanying promptness and forethought in confronting aforementioned up-to-date dangers content seen former. The new allowable foundation needs expected remodelled and outfitted accompanying all the supplyings to handle new dangers that can stand from aforementioned resentment of universal in days at hand.

That attempts was further fashioned to build a inclusive allowable foundation for that a step forward was captured through Directions on Healing Readiness and Bulk Origin Administration, 2007 that focuses on immediate healing readiness for volume construction at various stages, specific health management accompanying workshop conveniences, accompanying a distinguishing prospect on pre-emergency room care and conveyance of the sufferers and their adept administration in emergency rooms. Concentration of the directions search out select an all-hazard pattern accompanying an insistent approach for the administration of synthetic, organic, radiological and basic fatalities. Further Directions on Administration of Organic Troubles, 2008 handles supplyings for stop, guardianship, watchfulness, administration of important epidemics and disease that is widespread and those happen by subversive projects in the form of biography disorder for one use of organic additives. Especially, a particular approach has happened selected in regard accompanying Joined Ailment Following Project. Additional dose of vaccine programmes and eagerness by boosting and corroborating concerning a country with a Biography-security labs are individual of the noticeable physiognomy of the machine. Nevertheless, this facet of the society is more biography-disorder principal that grant permission not be favorable to immediately handle the position of a understood murderer unpaid obscure beginning of inception and doubtful contamination.

Universal, Cure and Race of Preeminence

That some universal position basically and widely has two stages, individual being deterrent measures to stop the storm and society broadcast and the cure through cures and drugs expected created free for the casualties as vaccines. That the functional permissible means though functions to play deterrent duty next to impressive sanction to thwart further spread of the infection but before this time skilled is no allowable foundation to emphasize the chance of the cure or

future cure apart from The Patent Act, 1970. So that form aforementioned cure for halo bacterium handy at bulk scale United States of America experts play an exhaustive act to guarantee community health under the patent standards in India. That a linked translation of portions 47, 99 to 103 of the pronounced Act, 1970 lay down a complete makeup for making cure or drug handy for one Management for public use. We all are pass through a difficult time and beating pebble into mystery for search of the cure-all. Two together the ethnic and private labs are still to decipher and dawdling their all work at hand accompanying a distinguishing cure or drug or cure. Immediately, the question will stand as and when the wonderful will affiliate with organization help of private inventors concerning the one will patent the lie of halo bacterium cure and either the discoverer will beat out the monetary benefit of patent rights to hold a ownership over the drugs. Skilled will be an certain conflict 'tween community health and individual gain under the patent society rule that can have a weighty importance. Still, the supplyings of patent societies have the be responsible to handle the position. Grant of patents are once created liable to be subjected Administration meddling for significance for allure own use or for classification in some small enclosure or building, ward, or different healing organizations that the Principal Administration can, bearing regard to the object of civil service. This supplying puts a check at the very primary stage of claim of grant of patent and can work wonder for the cure expected public. Additionally, the brief allowable device awards huge capacity to the Management to use creativeness for the purpose of the Administration if some patent use is ordered or allowed that though performs expected a blanket capacity in the help of State opposite to the individual rights but happening after of urgent needs country with its own government stands first over the individual benefits. That the clear figures of the supplyings show that the ethnic danger and non-monetary use play a solid part in utilizing the cures or drugs for cure by mediation of the Administration.

Conclusion

It starts place it ends as the disadvantage momentary and dispute only leaves a emptiness for more findings in the subject. The always extending permissible skyline stretches allure weaponry further but still poses a question either it can curb specific a menace of surprising universal. The regulation absolutely needs to develop more capably to address the need of the period by encasing the probabilities of aforementioned further rise of universal. Soon, in many circle the Aboriginal American society management has abandoned to pierce the troubles accompanying allure existent allowable depot that entails a recovery by supplying the regulation accompanying up-to-date skill and science. So, far regulation being the implement of applied social science demands more effective use to systematize and handle the human practice concurrently with an activity of universal place the prevalent lives fall mug to specific anomaly of position and collapse of people on account of universal. Skilled is a abrupt need of causing new set of societies more realistic in allure explanation, sensible in allure relevance and efficient in allure exercise at subject intelligent method organizing the issues carried of universal because a tenable humankind is attained.

References

1. Copyright, Designs and Patents Act, 178, 1988 (UK);

- Copyright Act, 2, 1994 (New Zealand).
2. Consolidated Patent Laws, 100 (f), U.S.C 35, https://www.uspto.gov/web/offices/pac/mpep/consolidated_laws.pdf, (accessed date 27 March 2021)
 3. Draft Report with recommendations to the Commission on Civil Law Rules on Robotics, EUROPEAN PARLIAMENT (2014-2019), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NON SGML%2BCOMPARL%2BPE-582.443%2B01 %2BDOC%2 BPDF% 2BV0 //EN>, (accessed date 27 March 2021)
 4. Ronald Yu, Should an Artificial Intelligence be allowed to Get a patent? ROBOHUB, <http://robohub.org/should-an-artificial-intelligence-beallowed-to-get-a-patent/>. (accessed date 28 March 2021)
 5. Thomson Reuters, Use of artificial intelligence for smart contracts and blockchain. Retrieved from: Use of artificial intelligence for smart contracts and blockchain, 2018, 8-pg
 6. Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation), art. 22, 2016 O.J. (L 119) 1, 46 (EU)