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# ADM Jabalpur v. Shivkant Shukla

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## ABSTRACT

*The present case raised the issue of whether the High Court, in accordance with Article 226 of the Indian Constitution, has the authority to protect an individual's right to life during a National Emergency. The aforementioned judgement was widely seen as a lamentable event in the annals of the Court's chronicles. The primary focus of the case was to the interpretation of Article 226, which has a wider scope compared to Article 32, since it serves to enforce rights that extend beyond those deemed basic. The case raised the inquiry of whether Article 226 has the capacity to protect an individual's fundamental right to life in times of emergency, even if such protection is not explicitly provided for by Article 21. The Court's ruling established that the inherent right to life, which beyond the scope of the Constitution, might be upheld via the application of Article 226. The ADM Jabalpur case stands as a significant event in the annals of the Court's history, underscoring the crucial role of adopting constitutionalism as a means to protect individual rights and defend the principles of justice.*

## I. HISTORICAL BACKGROUND AND FACTS

In *State of Uttar Pradesh v. Raj Narain*<sup>2</sup>, A petitioner from Indira Gandhi's home district of Rae Bareli disputed her election to the Lok Sabha. When Justice Sinha found Indira Gandhi guilty of corruption, on June 12, 1975, he nullified her election as prime minister. The ruling of the High Court was appealed by Indira Gandhi to the Supreme Court, where she requested for a conditional stay of the judgement. Because of this, she was hampered while speaking on the House floor, and her influence was waning. While this resistance grew stronger, Indira Gandhi was forced to declare an emergency under Article 352 Clause 1<sup>3</sup> as a result. to amend the Constitution, President Fakhruddin Ali Ahmed declared a "internal disturbance," which led to the Emergency. Article 14<sup>4</sup> of the Constitution's fundamental rights have been suspended since the declaration of emergency., and 21 were put on hold, as were any actions in court pending on whether or not these Articles could be enforced while the country was under an emergency. Preventive Detention Laws allowed the government to imprison without charge or trial

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<sup>2</sup> *State Of U.P v. Raj Narain & Ors*, (1975) SCR (3) 333 (India).

<sup>3</sup> INDIA CONST. art. 352, cl. 1.

<sup>4</sup> INDIA CONST. art. 14.

anybody they deemed to be a political threat or with the ability to express political views. Because they were posing a political danger to Indira Gandhi, In the wake of the Morarji Desai and L.K. Advani scandal, several opposition leaders were detained under the MISA programme, including former prime minister Atal Bihari Vajpayee (Maintenance of Internal Security Act). Following that, these leaders petitioned a number of High Courts to have the arrests set aside. Many of them had no idea why they had been arrested. There were some who petitioned the several High Courts, calling the detention orders illegitimate and unlawful and asking for the issuance an order of habeas corpus to end their incarceration.

## II. ISSUES

The issues in the said case were-

- Can a person contesting his wrongful imprisonment maintain the writ of Habeas Corpus in the High Court under Proclamation of Emergency following the President's order?
- Was Article 21's <sup>5</sup>suspension permissible under the rule of law?
- Does a detainee have locus standi in court during an Emergency?

## III. RULES

When it comes to these matters, the State has discussed the sole purpose of declaring a state of emergency under the Constitution, which gives the Executive Branch authority over how laws are implemented. Whatever the State decides is legal will stand. Invoking Article 226 of the Constitution to file a writ petition at the Supreme Court are on hold, and petitioners had no legal standing to seek the Court to have the suspension lifted, therefore any petitions would have been rejected on the basis of logic. Due to Part XVIII of the Indian Constitution's Emergency Provisions, which includes Article 358<sup>6</sup>, Article 359(1) <sup>7</sup>and Article 359(1A) <sup>8</sup>are essential to the country's economic and military defence. The law passed under Presidential Order is unchallengeable on the grounds that it violates basic rights that were put on hold by the order in question. Now we know the answer to queries like " Do those detained in violation of the law have the right to keep the writ of Habeas Corpus issued by the Supreme Court under a Proclamation of Emergency?" Whether you are asking if you can go to the High Court to have your fundamental right restored under any Article of the Indian Constitution, the answer is no. The petitioner has no legal standing in this case because he lacks locus standi.

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<sup>5</sup> INDIA CONST. art. 21.

<sup>6</sup> INDIA CONST. art. 358.

<sup>7</sup> INDIA CONST. art. 359, cl. 1.

<sup>8</sup> INDIA CONST. art. 359, cl. 1(a).

#### IV. ANALYSIS

Following the dissent of H.R. Khanna in the ADM Jabalpur Case , the Rule of Law has undoubtedly grown dramatically. Because of his views, he was bypassed in the appointment process and his younger M.H. Beg was named Chief Justice. A "darkest day for democracy" alluded to the day the verdict was announced, with comparisons to Hitler's ascent to power. To be honest, C.J. Ray ridiculed the people's counsel when he cited Hitler's extermination of the Jewish people to demonstrate how a decision in favour of the petitioner would lead to a similar situation. In addition, this ruling did not even favour the rule of law. This decision seemed to favour only five people: Indira Gandhi and the other three judges who delivered the decision, as well as India's then-Chief Justice A.N. Ray, and we can conclude this because all of the judges, except for Justice H.R. Khanna, went on to become Chief Judges of India after this decision was made. Justice Khanna wanted power so much that he resigned as Chief Justice even though the kingdom was to pass to his younger brother, Justice Beg. Even as late as 2011, Justice Bhagwati expressed regret, saying, "I was wrong. The majority's decision was incorrect. I would agree with Justice Khanna's judgement if I could make a new one in that situation. Sorry for any inconvenience this has caused. I am not sure why I caved in to pressure from my co-workers. At first, I was opposed to the general consensus. However, for some reason, I ended myself agreeing with them. At the time, I was a rookie judge. This was the first time I had dealt with a case like this. However, it was a sign of my frailty." This judge's acceptance shows just how dire the situation was at the time, and what a lasting influence it had on the country as a whole.

The Supreme Court in *Maneka Gandhi v. Union of India*<sup>9</sup> changed the situation by establishing a connection between Articles 14, 19 and 21, which had been denied in 1977 after the Emergency and everything done to support it had been rejected by the general public, and by giving fundamental character to Article 21, which had been denied. *AKGOPALAN vs. THE STATE OF MADRAS*<sup>10</sup> particularly in respect of Articles 19<sup>11</sup> and 21. Both of these articles are interdependent and not mutually exclusive.

#### **From "Procedure Established by Law" to "Due Process of Law" the new strategy proposed by Maneka Gandhi**

*Maneka Gandhi v. Union of India* case that may be classed as both pre- and post-*Maneka*

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<sup>9</sup> *Maneka Gandhi v. Union of India*, (1978) SCR (2) 621 (India).

<sup>10</sup> *A.K. Gopalan v. The State of Madras*, (1950) SCR 88 (India).

<sup>11</sup> INDIA CONST.art.19.

Gandhi in the Indian judicial system's history. Passport Act, 1967 Section 10(3)(c)<sup>12</sup> authorised the government to confiscate passports for those whose safety and well-being were in jeopardy. She argued that this provision provides the government the ability to seize a passport without a hearing, which is an unfair process and violates the right to equality and personal liberty of the passport holder. A seven-judge panel of the Supreme Court agreed with the petitioner that the method set forth in Article 21 should be equitable and fair, as well as a reasonable one.

## V. CONCLUSION

Even yet, it is important to ask if the rule of law applies to all people equally.

Can you tell me if the rule of law benefits every Indian citizen? Is it applicable to all people equally? Surely the Indian legal system has fallen short of expectations here?. This is a challenging set of questions to answer, but it is important to do so. On a regular basis, individuals in India confront injustice because of corruption or other financial crimes. These crimes have remained unchecked despite efforts at anti-corruption and criminal law enforcement in general. Celebrities and influential individuals are often let off the hook and not prosecuted for the crimes they have done. When lawlessness takes over society, the rule of law is unable to protect the population from harm. People with criminal records or even those under investigation for crimes have become ministers to help draught legislation that serves the needs of the general population. Mr. Rajinder Sachar reported in the PUCL Bulletin in September 2002 that " The state had 700 lawmakers with criminal records, and the parliament had 14, all of whom were awaiting prosecution for murder, extortion, or other offences." AAFSA in Kashmir, extra-judicial murders across the country, mob lynching's, Abrogation of Article 370, Legitimacy of the CAA, and other contemporary incidents make us doubt Rule of Law's existence and validity today.

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<sup>12</sup> The Passport Act, (1967) Section 10(3)(c).