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CASE COMMENTARY ON A.K GOPALAN VS STATE OF MADRAS

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ABSTARCT

The case of A.K Gopalan vs State of Madras is a significant judgment in Indian constitutional law that dealt with fundamental rights, state power, and preventive detention. This abstract provides a brief overview of the case, its background, key arguments, and implications.

A.K Gopalan was a Communist leader who was detained by the state of Madras under the Preventive Detention Act, 1950. He challenged his detention in court on the grounds that it violated his fundamental rights under Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. The case raised important questions about the scope and limitations of fundamental rights in the face of state power.

The Supreme Court of India, in its judgment, held that Article 21 only protects against arbitrary and unreasonable state action and does not guarantee absolute rights. The Court also held that the Preventive Detention Act was a valid law and did not violate the Constitution. The judgment was criticized for its narrow interpretation of fundamental rights and for upholding the validity of preventive detention laws, which were widely used by the government to suppress dissent.

The case had significant implications for the protection of civil liberties and human rights in India. It sparked a debate about the need for judicial review of state action and the role of the judiciary in protecting the fundamental rights of citizens. The judgment was seen as a setback for civil liberties activists, who argued that the state's power to detain citizens without trial was a violation of basic human rights.

KEYWORDS: A.K Gopalan, State of Madras, Preventive Detention Act, fundamental rights, Article 21, state power, judicial review, civil liberties, human rights.

Case Title	A.K Gopalan V. The State of Madras, AIR 1950 SC 27
Case No.	Writ Petition (Criminal) No. 1 of 1950
Date of The Order	May 19, 1950
Jurisdiction	Supreme Court of India
Quorum	Constitutional Bench comprising of 6 judges - Chief Justice Harilal Kania, Justice M. Patanjali Sastri, Justice Mehr Chand Mahajan, Justice B.K. Mukherjee, and Justice Sudhi Ranjan Das, Justice Fazal Ali Saiyid
Author of the Judgement	Hon'ble Chief Justice Harilal Kania
Appellant	A.K Gopalan

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Respondent	State of Madras
Counsel for Appellant	M.K Nambiar
Counsel for Respondent	C.K. Daphtary
Acts and Sections involved	• Constitution of India, 1950 : Article 13 , Article 19 , Article 21 , Article 22 • Preventive Detention Act (IV of 1950), ss. 8, 7, 10-14- A law allowing the state to detain individuals for a specified period without a trial or formal charges being filed.

I. INTRODUCTION

Ayillyath Kuttiari Gopalan, a communist leader, was held in Madras jail each time his sentence was overturned under the Preventative Detention Act of 1950. Since 1947, he had been imprisoned. This case was a first of its sort because it involved in-depth discussion of several provisions of the Indian Constitution. Additionally, while he was still being held in custody, a petition for a writ of habeas corpus was filed with the Supreme Court pursuant to Article 32 of the Constitution. The petitioner argued that the Madras government had served him with a new order of detention on March 1st, 1950, in violation of the Preventative Detention Act, 1950, which he found to be unreasonable. In his appeal, he questioned the legality of this specific act and argued that its contents violated his rights under Articles 13, 19, 21, and 22.

In addition, he questioned whether his detention violated his right to freedom of movement under Article 19(1)(d) of the constitution, which is a fundamental component of Article 21—the right to life and personal liberty. However, the court adopted a more limited perspective in this decision and determined that the petitioner's detention did not infringe on any of his rights under Articles 19 or 21, and that these two rights are not related to or intertwined. Additionally, the court ruled in the same judgement that a "law" cannot be deemed unconstitutional merely because it lacks natural justice or due process. The phrase "Procedure established by law" mentioned in Article 21 is different from "due process of law," which is a phrase from the American constitution. This was discussed because the Indian constitution's drafters chose the phraseology of "procedure established by law" instead of "due process by law" because it is more ambiguous. The first chief justice of independent India, Harilal Kania, issued this decision. After over thirty years, the Supreme Court reversed its verdict in Maneka Gandhi's case.[77]

II. FACTS OF THE CASE

A communist leader named Ayillyath Kuttiari Gopalan petitioned the Supreme Court in accordance with Article 32 of the constitution to obtain a writ of habeas corpus. He requested this writ on the grounds that his detention under the Preventive Detention Act of 1950[78] violated his right to freedom under Article 19 of the Indian Constitution, which in turn violated his right to life and personal liberty under Article 21. The petitioner argued that the term "LAW" used under Article 21 encompasses not only the laws that have been passed but also the principles of natural justice and laws that deprive someone of their right to life and personal liberty. The petitioner also argued that the phrase "Procedure established by law" found in Article 21 of the constitution is similar to the phrase "Due process of law" found in the American Constitution[79], with the exception that the Indian Constitution's phrase only guarantees protection of procedural laws, whereas the American Constitution's phrase guarantees

[77] Maneka Gandhi v. Union of India, AIR 1978 SC 597 (India).
[78] Prevention Detention Act, No. 4 of 1950, India Code (Act 4 of 1950), as amended by Act 58 of 1952, Act 18 of 1955, and Act 39 of 1964.
[79] U.S. Const. amend. XIV, § 1.

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protection of both procedural and substantive laws. The petitioner further argued that the Preventive Detention Act went against his rights guaranteed by Articles 13, 19, 21, and 22 of the Indian Constitution

III. ISSUES

The issues raised in the A.K. Gopalan Vs State of Madras case are as follows –

A. Whether the Preventive Detention Act of 1950 violates Articles 19 and 21 of the Constitution?

B. Whether there is a connection between Articles 19 and 21 of the Constitution, or are they distinct?

C. Whether the Preventive Detention Act, 1950, under Article 22 of the Indian Constitution, 1950?

IV. ARGUMENTS IN FAVOUR OF APPELANT

A. His right to freedom under Article 19(1) (Right to be free) was violated by the detention order because it restricted his freedom of movement.

B. His right to life and personal freedom was being violated by his detention, according to Article 21.

C. The detention order violated the constitutional protection against arbitrary detention and arrest under Article 22.

D. Section 14 of the Preventive Detention Act violated his fundamental right under Article 13 (law that violates the interrogation of a person's fundamental rights is unconstitutional), this Act shall be deemed invalid.

V. ARGUMENTS IN FAVOUR OF RESPONDENT

A. Article 22 of the constitution states that detention is not arbitrary.

B. The legal procedure has been correctly followed.

C. The petitioner's rights under Article 19, Article 21, or Article 22 are not being violated by the detention.

D. The 1950 Preventive Detention Act is not arbitrary.

E. The petitioner cannot be given a Writ of Habeas Corpus.

VI. JUDGEMENT

A. The Preventive detention Act of 1950 does not contradict Article19 of the Constitution, as Article 19(1) has nothing to do with preventive or punitive detention and that it is outside the scope of Article 19 (1). Additionally, it stated that accepting the petitioner's argument would call into question the validity of several criminal laws that permit punitive detention, which is against what the Constitution intended. The court further argued that because citizens whose freedom is curtailed by law are not covered by the article, Article 19(1) is not applicable and cannot be enforced. Hence, the Preventive Detention Act of 1950 does not violate Articles 19 and 21 of the Indian Constitution.

B. Section 14 of the Act was declared ultra-vires for violating the rights guaranteed by Article 22(5) of the Constitution. The court further noted that although Section 14 is Ultra Vires, this does not invalidate the entirety of the Act of 1950. The petitioner's argument against the legitimacy of the Act, except for section 14, was found to be unpersuasive because the Preventive Detention Act of 1950 does not contravene any provisions of Part III of the Constitution.

C. When reading Article 19 in its entirety, while citizens have some freedoms, they are not permitted to use those freedoms against the interests of others. This set the "personal liberty" secured by Article 21 apart from the freedom protected by Article 19(1). The term "personal liberty" was also considered by the court to be a broad term that might include our freedoms to travel and dwell inside Indian territory, but not the additional freedoms outlined in sections (a) and (f). The court stated that "personal liberty" relates to the freedom of one's physical body and that just a portion of it is covered by Article 19, despite giving the phrase a limited interpretation.

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D. The Preventive Detention Act of 1950's many components are covered by Article 22, and those that are not added through the elements of Article 21. The Apex Court ruled that Section 3 of the Act was justifiable and that it was legal to give the government such a wide range of discretionary powers. The majority court also agreed that Sections 7 and 11 of the Preventive Detention Act of 1950 were valid because, according to Article 2(7)(b), the parliament lacks the mandatory authority to establish a minimum period of detention and, in accordance with Articles 22(5) and 22(6), the right to detention is protected. Additionally, Section 14 of the Act was ruled unconstitutional because it questioned the court's authority to decide whether detention was lawful.

VII. CONCLUSION

In this decision, the Court applied a highly factual interpretation of Article 21 and concluded that any procedure that could rob a person of his or her personal freedom was alluded to by the words "procedure established by law" in any Act passed by the relevant legislature. The Courts were prohibited from incorporating ideas like natural justice, due process of law, or reasonableness into the Article, it was further asserted. The Court consequently decided that the process could not be contested, even if it was irrational or inconsistent with natural justice. Therefore, it was incorrect for the Court to rule that each fundamental right stood independently from the others and that Article 19 only applied to those who were free, not those who were being held without being charged.

VIII. RELATED CASE LAWS

A. Maneka Gandhi v. Union of India, AIR 1978 SC 597.
B. ADM Jabalpur v. Shiv Kant Shukla, AIR 1976 SC 1207.
C. Kharak Singh v. State of U.P., AIR 1963 SC 1295.
D. Munn v. Illinois, 94 US 113 (1877).
E. Wolf v. Colorado, 338 US 25 (1949).
F. Betts v. Brady, 316 US 455 (1942).

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