CHAPTER-I

1. INTRODUCTION AND LITERATURE REVIEW

"Man, within the limits (all) the world's problems, but problems start and where to find it (them) not born to solve."

(Eckermann's Goethe)

Begins with the honorable task of the present work. Freedom is the highest civilization in the modern sense of the child. In an orderly and law-abiding society grows and turbulent wave stagnates. Extend the right to liberty and meaningful life is a sign of development and progress. In any society inherited from generations past year, which is the basic price.

Part of a country's civilization can be measured by the prevailing state of freedom. All events, preservation and prosperity of the nucleus, punctual individual human freedom that is prevailing in the area. The nuclei of all events, preservation and prosperity of the individual human freedom. It is chained, so cribbed, cabined or assumed independence plant becomes lifeless. The Indian Right to life and personal liberty clause was shown by the founding fathers when drafting the anxiety and fears. Article 21 of the Constitution in the following pages study examines and takes stock of the signals of the Magna Carta 'We the people of India."

The study of these Constitutions world constitutions so as to receive instruction becomes necessary. The right to life and personal liberty clause Constituent Assembly to
draft the USA in the marginal note, in terms of the constitutions of Japan and Eire included.

It further we like a frog in a well can not be explained. Vasudhaiva kutumbakam (global community) Being a member, we can not close our eyes to developments at the international level and, in particular, the right to life and personal liberty under international law. We come within international wavelength so that this study can make the section will broaden our vision.

In India the fundamental right to life and personal liberty that is worthy of a thorough study of the British Raj to Swaraj has a long history. Study of tug of war between two competing interests: American and English models, motivations and life and personal liberty of the Constituent Assembly instructions section will give a clear picture. It is on this basis we can build a successful model for tomorrow because the historical background, it can be pointed out, is important.

A constitutional provision can work in isolation and can be read as a self-contained code.

As a part of the basic structure of the respective rights, directive principles, rights enforcement, suspension of enforcement of rights, including the right to amend and other provisions of the Constitution, it is necessary to find and interrelate.

Legislatures in India right to life and personal liberty is an important contribution to the field, but many times they have constricted their development Group. Dynamics in judicial approach, as well as activism more on some occasions, were there.
The current study will shed light on the changing landscape. Majority, minority, were isolated and consensus opinion. A test to detect instructions judicial approach is to make these ideas. Aspects have yet to reach some other world constitutions. This aspect is examined in this book.

The law can not be studied in isolation, says Professor Dennis Lloyd. We test a multi-disciplinary approach in the modern times, a successful study in any branch of law is possible. Examine the constitutional problem, while the current work investigates the problems of other social sciences.

The current study, judges, law and other subjects of articles and books written by academics brings out various shades of opinion. Article 21 of the Indian life and personal liberty and the instructions section will highlight the expectations of experts.

Furthermore, a study of its critical evaluation and recommendations and suggestions is complete without.

Life and freedom is strengthened, and once prosperous India can excel in the global community.

As such, the present and it is not possible to cover its total production. A modest attempt to contact the selected areas are used in this work.

Subject to the five parts, Part I introduces the subject is divided into Part II of the life and experiences in the land of the constitutional right to freedom of Article 21 discusses the various dimensions. It developed, developing and underdeveloped countries, check the status of the right to life and personal liberty.
Article 21 of the Indian Constitution, Part III deals with the constitutional approach. This part of the right to life and personal liberty highlights the ideological treatment.

Chapter IV, America, England and Australia with the Constitution of the analytical studies of the Indian Constitution. Part V of the Conclusion and Suggestions, whether successful and failed and where it is concluded. And finally, the current study ended with a postscript.

1.1 MEANING AND CONCEPT OF ‘RIGHT TO LIFE

"Each person of life, liberty and security of person is." Undoubtedly the most fundamental of all rights is the right to life. In its original meaning of Article 21 was interpreted as a fundamental right is not worth a mention. As interpreted and applied by the Supreme Court of India in this chapter will examine the right to life.

India, 1950, Article 21 provides that, "No person except according to procedure established by law shall be deprived of his life or personal liberty." Article 21 of the Constitution, "life" is not only the physical act of breathing. The mere animal existence or life is communicated through continuous hard work. The right to health, right livelihood, right to live with human dignity, which includes a very broad sense, free air, and the right to pollute

the. It has received broad interpretation of the Constitution is the only article. Article 21 of the shelter under the canopy so many rights, development and nutrition is found.
Maneka lost court cases 'individual freedom' means to expand the help of the right to life. Francis Coralie in Bhagwati. J Cram Kapra and house party slogan [food, clothing and shelter] increase in the dimensions of your Maneka. Thinking and feeling full learned judge "to include faculties for life 'concept of the right to elaborate., He added:

Judge Learned "human dignity, basic needs" include family and friends to socialize with members of the "right to live" interpretation. In the above case Bhagwati.J., 'Right to life' through 'individual freedom' to bring in concepts related to. This personal freedom is not free from criticism that this interpretation is presented. The word 'life' separate 'personal liberty' in Article 21 is involved with.

Makes such a huge sense of personal freedom, the word "life" would be redundant. The Supreme Court jurisprudence Indian independence brought the level of international standard.

Francis ratio in the Asiad workers' basic human dignity "was implemented to develop. Then mix the new socio-economic order thus produced was dissolved in constitutional goal.

Court contract workers [Reg require compliance with the provisions of 'individual freedom' in the interpretation of basic human dignity. And abolition] Act, 1970, and interstate migrant Workemn [Reg. Employment and Conditions of Service] Act, 1979. The meaning of individual freedom and social welfare benefits provided under the laws and protection provided to workers has come to include.
Livelihood under Article 21 so as to include the word "life" as an explanation of the question again for the first time before the Supreme Court in Sant Ram came to the idea. Speaking through court Sinha, Chief Justice, the language of art, worked on it. 21 'individual freedom can not be suppressed, and this life into the concept of "right livelihood court did not rule out entirely the right was rejected. The learned Chief Justice was of the opinion that as "right livelihood" mentioned in Article 19, freedom, especially in CL. (G) or Article 16 in the limited sense "

Right to life and personal liberty 'livelihood' is involved in? The question then fixing the ceiling on agricultural holdings, land reform challenge was against the law where Begulla Bapi Raju V. Andhra Pradesh, was raised in. Sant Ram following the court again, "life and personal liberty" in the "liveliness" of Maneka and Francis Coralie rejected and the decision was not examined in the light of the above claims.

However, in the case of street dweller Chandarchud, chief justice, the right to life includes the right to livelihood. He will deny, cancel observed. As an aspect of life under Article 21 developed by the court's right to livelihood, so far "personal freedom" means to extend the reach would result in

Only one person has the right to protect the livelihood of the standard. The court in Durgapur Projects Ltd. V. Shankar "decent housing" extended to include the right to live. The standard of living of the petitioner was entitled. To ensure minimum standards of human dignity for women and children in care homes "quality of life" was included in the.
1.2 MEANING AND CONCEPT OF PERSONAL LIBERTY

Freedom of the individual to be protected by national courts is one of the oldest concepts. Until 1215, the English Magna Carta (1) No Freeman shall be taken or imprisoned, provided that ... But ... By the law of the land.

Eighteen words short paragraph cherish the ideals of freedom, which is of the greatest importance for those. What could be more important than freedom? India 'freedom' concept has received a far more expansive interpretation.

There are rights and privileges have been conducted.

. Surprisingly, the word "life" in which the American justice in Munn v. Illinois (per Field, J.), the term "personal freedom" means the trust of both majority and minority on the bench meant something more than mere animal existence.

Visit the official residence of the UP Police Regulations majority unconstitutional [as a form of surveillance at night by police officers, and thus constituted a deprivation of liberty] to be held. The fundamental right of lawful imprisonment by the Supreme Court has held that the dismissal is not magic. A prisoner only 'essential' imprisonment in the event of a lost except as enjoyed by an independent reserves all rights. In the next section 'procedure established by law' - largely to understand the structure of Article 21, Article 21 One of the aspects we will ignore.

The right to dignity, social justice and economic empowerment and suitable buildings and other facilities for the Advocates Association.
The wavelength of the Allahabad High Court was raised an important question. The court gave a positive answer to it.

Article 21 sought to apply the shadow detail or fashion icon status could be abused by people. In such a situation can be set right by the state, making it the law on the subject, is presented.

1.3 QUOTATIONS

There were many important people throughout history that contributed to the notion and understanding of human rights. These are some of the pioneers of the concepts.

**Plato**

Plato believed in universal truth and virtue. This idea has continued on to become universalism, that human rights are universal, and as such are above the laws of individual states.

**Aristotle**

Aristotle’s view of the world included the existence of different social classes, accepting that there will always be an underclass, and even a slave class and that this is perfectly normal.

**St. Thomas Aquinas**

He saw that basic human needs such as self preservation require fundamental human rights.
**Thomas Hobbes and Jeremy Bentham**

Positive law is the idea that law and human rights come from the state. Hobbes and Bentham were positive law theorists who believed that human rights needed strong laws to protect them. One difference from previous viewpoints is that these rights can be given and taken away by the state, they are not universal. Bentham believed in utilitarianism, that there should always be the greatest amount of good for the greatest number of people.

**John Locke**

The positive law view was changed to include the idea that the state’s law stemmed from a constitution, the legal framework of the society. The constitution however, was itself based on natural law, which includes a natural right to self preservation. Therefore the power of the state was still subject to inalienable human rights. The state should protect individuals from the actions of other that would impinge on their freedoms. Citizens should be empowered to revolt if they felt that the state was abusing its power. This became the underlying idea behind the French and American revolutions and their subsequent development of new nations.

**Jean-Jacques Rousseau**

Rousseau came up with the social contract theory, that stated that all individuals in a society had entered into a contract to form a civilized society in exchange for the government giving them equality.

**Immanuel Kant**

In his book On Liberty, Mill strongly disagrees with utilitarianism, and sees it as a type of tyranny by the majority. Liberties such as freedom of expression and association should not be absolute, but that they should exist in such a way as not to deprive others of their ability to achieve their own liberties.
Karl Marx and Friedrich Engels

Marx and Engels, the fathers of communism, saw rights in an entirely different view, namely that they were unconnected to the reality of the exploitation of the working class.

Unlike Mills, Marx had another definition for liberalism as something to be gained through government, rather than as a freedom from interference. Equality was more important that liberty, especially in the ownership of private property (fundamental tenet of communism). Only one fundamental right existed under their system, that of revolution.

Ronald Dworkin

Dworkin’s philosophy disagrees with Bentham’s rejection of natural rights. He sees human rights not as being absolute and universal, but as being a creation of politics that try to treat all people equally. Therefore all members of society have the same voice, which is not dependent on their social status.

Utilitarianism, with its idea of ignoring the rights of minorities in the name of the greatest good for the majority threatens to destroy the entire concept of individual human rights.

1.4 Historical background of the right to life and personal liberty

Human constant throughout human history is a concept that has been developed. Throughout the ages the complex laws, customs and religions deal. Individual rights are references to the codification of the law is the first example of a tablet of Hammurabi.
About 4000 years ago, Sumerian tablet was built by King Hammurabi. Considered barbaric by today's standards, the 282 system of laws created a precedent for the legal system. This kind of precedent and legally binding document that protects people from arbitrary harassment and punishment.

The concept of human rights, prevention of arbitrary persecution began to take greater meaning than the one where it was in ancient Greece. Human rights, rights that have become synonymous with natural rights spring from the natural law. Socrates and Plato, according to Greek tradition, natural law is essentially the natural order of the universe, nature reflects the will of the gods who control the law. Despite this theory, human rights, natural rights are fundamental differences between today and the past.

The fundamental philosophy of human rights arose from the idea of positive law. Thomas Hobbes, (1588-1679) vast differences of interpretation as being too vague and open hollow, and saw the natural law. So instead of being wholly positive human rights law, they can be taken away, and modified by a society to suit your needs. Jeremy Bentham, a legal positivist sums up the essence of the positivist view:

From real laws come real rights, but from imaginary laws, from the "laws of nature," come imaginary rights .... Natural rights is simple nonsense, is a child of law. (J.Bentham, Anarchichical mistakes, N.Kinsella quotes, G. Gall, Ed, Canadian Civil Liberties (in Toronto "tomorrow's rights in the mirror of history" .. Butterworths, 1982), p 17)

Dwelling in a body and life and liberty have existed in ancient times, the evidence to support that approach. Rigveda, ancient texts like the Mahabharata, home life and the
principle of individual liberty deeply rooted in ancient Indian society are full of literature to that conclusion.

The British Era

. The West Bengal State Prisoners Regulation, 1818, in the interest of peace and security of the people of the detention of any person authorized by. At that time people had the same rights and privileges enjoyed by the British wanted. Indian people wish it was implicit in the formation of the Indian National Congress in 1885. Heralds the dawn of the fundamental rights of the Indian national movement. Demand for Fundamental Rights Bill, India, between 1917 and 1919, Congress adopted a series of resolutions 1895 and also appeared in the Constitution.

With regard to the fundamental right to life and liberty Nehru Report a systematic approach, started with 1928. This, says among other things, contained a chapter on fundamental rights:

No person will be entering your home or property shall not be deprived of his liberty, sequestered or confiscated, save in accordance with law.

Over the people of India demand was rejected by the British Government of India Act, 1935 contained no declaration of fundamental freedoms. The protection from unlawful arrest and detention Criminal Procedure Code, 1898 is available under the writ of habeas corpus that can be mentioned here.

V. emperor ruled illegal Kesav Talapade up in federal court. And held that the rule was ultra virus. are. Privy Council, on appeal, the governor personally in every order
of detention must be satisfied that the federal court did not agree with that view. To check the validity of the detention order that the court had no power to dismiss the Crown's contention.

The main question before the new ordinance Ordinance federal court under the Criminal Procedure Code, Section 491 was the power of the High Court denied the spring Chanra Ghosh v. King Emperor, was challenged. Federal Court of the High Court Ordinance stripped neither the power nor does it rule out that Section 491 was repealed. In India, frequent protests and attempts foiled courts. The mission of the Privy Council in the hands of the federal courts.

Courts on the ground of expediency deprived of his personal liberty every man to be in favor of the constitutionality of government action.
1.5 Review of literature:

An attempt is made in this research to review available literature on A Historical Study of fundamental rights with special reference to Right to life and liberty, with a view to examine the different formatted points and views adopted by the various thinkers and political scientists. However the relevant contribution is briefly present.

- Mukherjee; Constitution of India, 2007. In this the discussion was made on various issues such as on various Articles but the main thrust was connoted on the main Articles that is the Right to life and all about the personal rights of an individual which are very necessary for the human existence.

- V.K.Puri, Sunita Puri; Indian Government and Politics and Political Theory; 2012. So for as this venture is concerned, it elucidates that there is a chapter on fundamental rights in which the right to life is the most important right. In it mention was also made that the democracy had always helped the upliftment of the rights of an individual and as a society as a whole.

- Manohar Gupta; political Science key concepts; 2011. In this the various concepts have been discussed such as the liberty, rights and the like but so far as the present research work is concerned mention may be made that rights are essential asset of our life and with the help of rights we can have the proper protection and security in our life.
A.P. Awasti; Indian Political System; 2009. This study tells about all that, which is about the fundamental rights, provides the historical background of the constitution of Free India. It also gives the information regarding the basic rights like the right to life and liberty and their role in the constitution of India.

R.C. Agarwal; Indian Political system; 2000. The study mentions that there is a great importance of the fundamental rights such as the rights which are very necessary for the promotion of good and healthy life of an individual and as a society as a whole.

B.L. Fedia; Indian Government and Politics; in this mention may be made that the rights are very important in the Indian part of view. In this it was also discussed that what is the constitution of India its importance and relevance in with that of the foreign states.

M.V. Pylee; Indian constitution; this mentions that the constitution of India contains the various rights and duties, particularly the rights like right to life and liberty. In it there is all about the working and the organization of fundamental rights which are mentioned in the proper way under chapter third and fourth of the constitution of India.
Hans Raj; Indian Political System; 2003. In it the whole summary was mentioned on the political system of India and in it the fundamental rights were discussed and the main thrust was given on the right to life and the like.

N. Shrinivas; Democratic Government in India. This important venture elucidates that in India there is a government of ideals and the democracy had have always supported the rights of the people as a whole, that is why the people from Indian origin always used to give proper support to the government in order to get the rights be in a flexible way and in a good manner for the betterment of the Indian People.

L.M.Singhvi ; Union State Relation in India 2001.In mentions that there is close contact between the two that is centre as well as state and mention ,ay be made that it is all due to the same kind of fundamental rights such as the life and liberty.

Mashwari .S.R: Indian Administration .1989 the study envisages that the administration of India is having the good way and the control over the public of India. It is all due to the rights which are guaranteed by the constitution of India to her people.

R.Khan; Political Integration in Federal India; 19662.So for as this is concerned in discusses that the integration of India is based on the people of India. It is also said that the government of India gives its citizens the fundamental rights
particularly thee life and Liberty these are the essential rights in the list of fundamental rights.

- J.W.Garner; Political science and government, 1935. In it the evaluation was made that the politics is essential for the upliftment of whole people. In it there was the discussion on the rights that means there should be the rights for the development of people as a whole.

- V.K.Puri: Political Theory and Indian Government and Politics: 2012. In this the writer discusses on various issues and circumstances but within he also made the description on the fundamental rights and defined them very smoothly to make understand that the rights are very essential for the development of an individual and as for the society as a whole.

- Manohar Gupta: Key concepts of Political Science and Indian Government and Politics; 2011. In this the mention was made on the important issues like constitution, government and the like but the important topic which was discussed is the fundamental rights which are very important for the human existence.
REFERENCES


2. Idea of Law, 1966, 124


4. Ibid pp-120


7. Dr. Ashok v. Union of India. 197 5 SCC 10.

8. V.K.Puri; Political Theory and Indian Government and Politics; MBD House, Jalandhar, 2012 pp-136


10. The Nehru Report, 1828, Clause 4, pp 11

1.6 AIMS & OBJECTIVES OF RESEARCH

1) In order to get the whole meaning regarding the concept of right to life and Personal liberty.

2) To know what is the main motive of the cases given in the Articles given in the constitution of India regarding the Personal liberty.

3) To evaluate in detail the different dimensions of Article 21.

4) To examine the views of Supreme Court regarding the field of the rights such as the right to life and the personal liberty in detail.

5) To make the comparison of Indian rights with the other countries of the world such as with the United States of America.
1.7 HYPOTHESIS

The study proposes to test the following hypotheses:

1) What is the Meaning Of Right to Life And Personal Liberty?

2) Whether there is a correlation between the Right to Life and Personal Liberty.

3) Whether there is Article 21 fulfill the entire fundamental Basic rights of an individuals?

4) Whether there is a significant effect of Article, 21’ on, socioeconomic status of the Human being, and Society.

5) Whether and if so why there is an need to review on Right to Life and Personal Liberty?

6) Whether there is Article 21 of Indian Constitution is affective in comparison with developed Countries Bills of Rights?
There are accepted truths and theories in all field of knowledge. The intellectuals of the society are always inclined to probe for facts of the empirical world and confirm the proved truth of his 'investigations by acceptor correcting the existing theories. Such probing is called research.

According to the Webster's International Dictionary

"Research is a careful critical inquiry or explanation in seeking facts or principles; deligent investigation in order to ascertain something”.

Research methodology is a systematized investigation to gain new knowledge about the phenomena or problems after finalization of subject matter or study the next step is to Research Methodology - the method, of date collection. Data Collection is the process of obtaining valuable information for the purpose of research.

To design is to plan, i.e. designing is the process of making decisions before the situation arises in which the decision has to be carried out.

According to Pauline V. Young,
"A research design is a plan of action a plan or collecting and, analyzing the data in an economic, efficient and relevant manner"

The researcher is going to critically analyze the Right to Life and Personal Liberty Under Article 21 of Indian Constitution. Hence the researcher has given the statement of problem to introduce his subject. Next, he has given the background Right to Life and Personal Liberty in the first chapter. In the second chapter of the research work the researcher is going to discuss the different dimensions of Article 21 of Indian Constitution substantive aspect regarding the Right to Life and Personal Liberty under Indian Constitution.

In the third chapter the researcher has discussed The Constitutional Perspectives and Article 21. In the fourth chapter the researcher has critically analyzed the Right to Life and Personal Liberty Article 21 of Indian Constitution with modern Constitutions like United States, and United Kingdom Constitutional Amendments regarding Freedom Right to Life and Personal Liberty

As per the custom this research work will end with Conclusion and suitable Recommendations/Suggestions.

**METHODOLOGY TO BE USED**

There are two types of methodologies,

1) Doctrinal / Non-Empirical Legal Research.

2) Non-Doctrinal / Empirical Legal Research
DOCTRINAL RESEARCH

A doctrinal research means a research that has been carried out on a legal proposition or propositions by way of analyzing the existing statutory provisions and cases by applying the reasoning power. According to S. N. Jain,

"Doctrinal research involves analysis of case law, arranging, ordering & systematizing legal propositions and study of legal institution through legal reasoning or rational deduction."

The Doctrinal Research study is mainly based on proposition. The sources of data for doctrinal Research are law library, the reports of appellate courts, case laws, law journals, internet etc.

The researcher used the method of Doctrinal Research for research. The reason for choosing the Doctrinal Method is that, the issue of Reforms of Right to life and personal liberty is not limited to particular sections of one Act but it is too wide. So also to save the time and money the Researcher has used the doctrinal method for research work.

So the doctrinal method is good to make good research. Also there are some other reason to choosing this method, this are the advantages of the this doctrinal method.

ADVANTAGES OR REASONS

1) This research problem is an present problem. Large amount of literature is available on this issue. So the doctrinal research method is good.

2) Doctrinal research is based on the library. So there are many books are available in the law library which deals with the Constitutional La
3) In point of view of the money. It is an less expensive method for the research.

4) It is an also less time consuming method for research.

Hence, the Researcher has adopted this method of research.

**SCOPE OF THE STUDY**

1) To Understand the meaning of Concept Right to Life and Personal Liberty

2) To Look a at the trend of cases in Article 21

3) To examine in detail the different dimension of Article 21 and related case laws.

4) To examine the views of Supreme Court in detail in the areas of the Right to Life and Personal Liberty in India.

**MODE OF CITATIONS**

The Researcher has used a uniform mode of citations as follows Author “Name of Book”/Article,(Editor, Edition, Publication, Place of Publication, year of Publication.) page No.

**METHOD OF WRITING**

Researcher has follows primarily descriptive and analytical form of writing.
RESEARCH QUESTIONS

1) What is the meaning of Concept Right to life and Personal Liberty.? 

2) What are the different freedoms provided by the Indian constitution under Article 21. which is fundamental and basic needs of human being.? 

3) What are the various grounds used to expand the scope of Article 21.? 

4) Indian judiciary is competent to handle complex issues like Right to life and Personal Liberty.?
CHAPTERISATION

1) Chapter I : Looks Meaning and Concept of Life and Personal Liberty, Historical Background, views of foreign philosophers.

2) Chapter II : This Chapter Examines the different dimensions of Article 21 of Indian constitution.

3) Chapter III : This Chapter looks at the Constitutional perspectives of Article 21 of Indian Constitution.

4) Chapter IV : This Chapter Critically Examines Article 21 of Indian Constitution with modern Constitutions e.g Untied States, United Kingdom.

5) Chapter V : This Chapter deals with conclusion and Suggestions

Source of Data : an exclusive research was done secondary source of books and articles. A Comprehensive Bibliography is provided at the end of this project.