VII. CONCLUSION
CHAPTER VII

CONCLUSION

7.1 Dimensions of personal liberty under Article 21 of the Constitution of India have been discussed in detail in the foregoing Chapters. In this very thesis an earnest attempt is made to analyse the concept of liberty as interpreted by our Courts. After analysing the concept the conclusions and suggestions have been given in each Chapter. Yet in this concluding part it is necessary to summarise the multifacets of liberty as interpreted by the Supreme Court in different judicial pronouncements.

7.2 The topic of liberty is extremely wide and much has been said and written about the topic by eminent jurists, writers, lawyers and judges of eminence and also by others in the form of books, journals, articles and so forth. In this work case laws pertaining to the theme of liberty have been covered from the time our Constitution came into force till July, 1988.

7.3 Our Constitution is a living law and for keeping this law alive it has to be liberally interpreted by the Courts. Liberty runs through length and breadth of Constitutional law and it offers a backbone to the rule of law and significance to the welfare State.

7.4 In Chapter I of this thesis the concept of liberty has been described with the help of definitions. Man prizes his liberty more than anything else in the World because it is the focal point of the development of human personality and his happiness in life and happiness which is the ultimate goal of all mankind cannot be fully and easily achieved without personal
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liberty. The significance of the concept of liberty has been highlighted by a Constituent Assembly member late Shri Chimanlal Shah in the following words:

"The right.....is the most fundamental of the fundamental rights in this Chapter, because it is the right which relates to life and personal liberty without which all other rights will be meaningless."

7.5 During the recent times the concept of liberty has been given a very wide interpretation by our Judiciary. In fact Article 21 of our Constitution is the smallest Article, but by judicial activism its scope has been widened to such an extent that all the rights which are not specifically enumerated in our Constitution can also be asked for by a person within the purview of Article 21.

7.6 For instance in A.V. Chandel v. Delhi University the Delhi High Court included the right to education in Article 21 of our Constitution. In this case due to delay in admission, the petitioner could not file his nomination paper for the Students' Union Election in time and his nomination paper was rejected. He claimed protection in Article 21 on the ground that the right to education, which included participation in the activities of the Delhi University Students' Union was included in the expression life and personal liberty and this right was violated because no sufficient time was given to the petitioners to file nomination.

7.7 It was Justice V.S. Deshpande, who held that the expression 'life and liberty' in Article 21 included variety of rights. Although they were not included in Part III of the Constitution, they were necessary for the full development of the personality of the individual and could be included
in the various aspects of the liberty of the individual. It was, therefore, said that the right to education is also included in Article 21 of the Constitution.

7.8 In yet another case of A.P.S.R.T.Corporation v. Labour Court, Guntur, Full Bench of Andhra Pradesh High Court accepted the broad interpretation given in Maneka Gandhi's case and included the right to work in personal liberty by reading together Articles 14, 16 and 21 of our Constitution.

7.9 The Courts have been the guardian of the Constitution and sentinels of the rights and liberties of the people and they have been protecting the same through judicial process. They have looked to the interest of the people even if there is no specific provision for the same as it is apparent from the cases decided by the Supreme Court and High Courts from time to time. They have tried to protect the interest of the society as the aim of law is to harmonise the social interest and that is why Courts have administered justice even without law, but on other considerations quite within the ambit of law and Constitution.

7.10 Individual liberty is a cherished right. It is one of the most valuable fundamental rights guaranteed by our Constitution to the people. The word 'liberty' is capable of being interpreted in a very wide manner. Liberty runs through length and breadth of a person's life. Every facet or activity of a person's life which helps in developing the full personality of an individual can be covered under it. If the right is invaded, excepting strictly in accordance with the law, the aggrieved party is entitled to approach the Court for relief.

7.11 The present trend, as it appears, is to invoke Article 21 for any breach or violation of a right of an individual. This tendency has to be
curbed somewhere because otherwise the true purport and concept of that article would be lost. It is relevant here to add that attempts have been made to include the property right in Article 21. Earlier the right to property was a fundamental right under Article 31 and 19 (1) (f) of the Constitution, but by the Forty-fourth Amendment this right was deleted from Part III and Article 300-A was added. The result was that the right to property ceased to be a fundamental right and, therefore, attempts were made after Maneka Gandhi's case to bring this right also under Article 21. (4)

7.12 In Ambika Prasad's case (5) it was stressed that proprietary personality was integral part of personal liberty and mayhem inflicted on a man's property was an amputation of his personal liberty. But this argument was not accepted by Justice Krishna Iyer. It was observed by him that there might be cases where a penniless proletarian was unfree in his movements and had nothing to lose except his chains, but a distinction was required to be maintained between property and personal liberty jurisprudence. Maneka Gandhi's case is applicable only when personal liberty is curtailed and not when State takes away the property. In the words of Justice Krishna Iyer: "Maneka is no universal nostrum or cure-all, when all other arguments fail!" (6)

7.13 In another case of Mustafa Hussain, (7) the Andhra Pradesh High Court did not allow the plea that the order which required lessors to enter into a fresh lease affected personal liberty of the lessors. It was observed by the Court that the expression personal liberty is a bundle of many other rights, but it did not include the lessor's right to get a fresh lease or to put these plots of land to whatever use they like.

7.14 Thus from the two cases cited above it could be seen that the courts
were reluctant to include the property right within the purview of Article 21. The Courts were right in interpreting that liberty and property should be dealt with separately.

7.15 In Chapter II an elaborate interpretation of Article 21 and the analysis of the words connoting positiveness is established for right to life and personal liberty and their dependence on 'procedure established by law.' While the Constitution of India uses the words: 'life and personal liberty', the United States Constitution uses the words: 'life and liberty'. The difference between the two clauses is obvious. The protection of life and personal liberty provided by our Constitution is limited than what is contemplated in the American Constitution supported by its due process clause which has practically given these words a wider dimension. It is very difficult to give a precise definition of due process. The literal meaning of due process is the guarantee of fair procedure. The U.S. Supreme Court has expanded the meaning of due process to a considerable extent and now it virtually encompasses all specific guarantees of Bill of Rights.

7.16 Article 21 is not intended to be a constitutional limitation upon the power of the legislature but its object is to serve mainly as a restraint upon the executive so that it may not proceed against life or personal liberty of an individual except under the authority of some law or in conformity with the procedure laid down therein. Before a person is deprived of his life or personal liberty, the procedure established by law must be strictly followed and must not be departed from to the detriment of the person affected.

7.17 In the same chapter, the landmark case of Maneka Gandhi\(^8\) has shown the process of judicial evolution of Article 21. It was in this case wherein
our Supreme Court introduced the due process clause in Article 21. In the same chapter, interrelationship between Articles 14, 19 and 21 have also been covered at length.

7.18 In Chapter III Personal Liberty against Preventive Detention is covered. The very words preventive detention suggest that liberty is at stake. Under Article 22 of our Constitution certain safeguards have been incorporated to mitigate the harshness of preventive detention laws. The essential purpose of preventive detention laws is to prevent anti-social subversive elements from imperilling the security of the State or the maintenance of public order or of essential supplies and services therein. If preventive detention laws are made use of for the above mentioned purposes, nobody would object, but if it is used against persons for malafide or malicious purposes, it would create difficulty for the people.

7.19 Article 21 provides that person's life and liberty can be taken if the procedure established by law is followed. Therefore, in the matter of preventive detention, the norms and the safeguards mentioned in Article 22 clauses (4) to (7) must be followed strictly and also the safeguards given in the preventive detention law must be followed scrupulously. If the procedure laid down in Article 22 or the relevant preventive detention laws is not followed the detention would be invalid. Since detention affects the liberty of the individual, Courts also tend to interpret the law strictly.

7.20 In preventive detention cases - liberty is always in issue. In this thesis only those cases which specifically deal with the concept of liberty vis-a-vis preventive detention have been touched upon and the noteworthy case which is discussed in detail is A.K. Roy's case. It was Chief Justice
Chandrachud who, speaking for the majority, reaffirmed his Maneka position that Article 21 did not permit judicial review of reasonableness of the substantive portion of law. It was really surprising that even Justice Bhagwati was a party in Roy's case giving majority judgement.

7.21 Preventive detention is unknown in America, whereas in Britain it is made use of during war times. In fact there is no country in the world which makes use of preventive detention during peace time as it is done in India. When our Constitution had come into force, the conditions prevailing in India were such that for protecting infant democracy, the provisions of preventive detention were included in our Constitution. Under extreme circumstances when there is national crisis preventive detention can be made use of, but during normal times if authoritarian Government makes use of it against innocent persons or good persons, it would be violative of the values for which our Constitution stands. Thus a conclusion was reached that preventive detention should be used only during national emergency and not during normal times.

7.22 In Chapter IV the new perspectives and dimensions which were attributed to liberty by the Court are discussed. The right to privacy has been discussed elaborately as an aspect of personal liberty. It is a new developing right under Article 21 of our Constitution and that is the reason why maximum number of pages have been devoted to this particular aspect of liberty in this thesis. The right to privacy has something to do with the prevention of certain kinds of intrusions into a person's life and such intrusion would affect the liberty of an individual. Constitution of India does not expressly mention the right to privacy and now by judicial interpretation, it has been considered to be an important aspect of personal liberty under Article 21.
7.23 In India during the olden times people were not very conscious about their right to privacy, but today under changing circumstances, the right to privacy has become an important right and every person wants to assert this right to the fullest extent to develop his personality. In this Chapter a few case laws are being discussed where right to privacy has been given importance by our Supreme Court.

7.24 It was in surveillance cases that our Supreme Court made the beginning and tried to read the right to privacy in Article 21. The aspect of privacy is also discussed in the light of protection given to accused persons against self-incrimination and against searches and seizures and also from the point of view of Executive privilege. Later on in Sareetha's case (conjugal right case), the Andhra Pradesh High Court upheld the right to privacy of a woman and declared section 9 of the Hindu Marriage Act, 1955 as ultra vires the Constitution. The other noteworthy case discussed is Sowmithri Vishnu's case on adultery. At this point, it would be appropriate to give a note of caution. The cases in which the the right to privacy have been upheld by our Supreme Court and High Courts great reliance is placed on American decisions. It would be appropriate if our Courts while deciding privacy cases took into account the Indian background, the Indian culture and the Indian law. Though in this Chapter all the important aspects and dimension of the right to privacy is touched upon, there is tremendous scope for further research work on all those aspects of privacy.

7.25 The right to life is the basic human right from which all other human rights emanate. It is basic in the sense that the enjoyment of the right to life is necessary condition for the enjoyment of all other human rights; when a person is deprived of his right to life, he is also automatically
deprived of all other human rights. The right to livelihood as an aspect of right to life is a new dynamics proposed by the Supreme Court under Article 21 of our Constitution in Olga Tellis case. (12)

7.26 An individual has a right to life and life here does not mean mere physical or biological existence. Importance has to be given to the means of living and that is the right to livelihood. The easiest way of depriving a person of his life would be to deprive him of his means of livelihood. Such a deprivation would make life impossible to live.

7.27 Right to livelihood is of immense significance in a country which is ridden with abject poverty and where people do not have shelter over their heads and also where its people are infinitely away from those requisites which are imperative to health and hygiene, access to wholesome drinking water and above all freedom from their cruel exploitation out of illiteracy. These are the main problems of the people and any national liberty without solution to the problems detrimental to life and deprivation from enjoyment of personal liberty will be nothing but hollow adoration of Article 21.

7.28 The different case laws discussed under the head right to life will show that attempts are made by the people to bring every law or every facet of life which causes loss of life or livelihood within the purview of Article 21. A wide interpretation can no doubt be given to Articles of our Constitution, but it has to be done in such a manner that its true meaning or import is not lost. Every law cannot be tested on the touchstone of Article 21, otherwise there would be hardly any legislation or executive action which will not come within its purview. It is certainly now left to the Court to decide how much the meaning of Article 21 should be stretched within the parameters
of the Constitution.

7.29 The most exhilarating experience in Jurisprudence is felt while discussing suicide - a right to die and death penalty (which is discussed in Chapter V). These two topics have shown sensitively and in microscopically fine way how life and its opposite death have wrecked the most brilliant minds to attain clarity of conception, whereas this theme has yet to go a long way, the beginning is quite encouraging.

7.30 A right to die has been discussed in the light of judicial decisions given by different High Courts. The Bombay High Court in Maruti Shripati Dubal's case\(^{(13)}\) has struck down section 309 of the Indian Penal Code ultra vires of Articles 14 and 21. The general opinion of the people is in agreement with the judgement, because they think that right to life is synonymous with right to die. But in this thesis a conclusion has been arrived at that death is a concept which is negative to life and the right to life should remain confined to protecting life and to continuance of biological existence.

7.31 There is no doubt that every individual has personal liberty, but granting of this liberty should not be of a negative form which is either unfair or capricious, but its sense should be restricted to more noble, idealistic personal liberty and liberty in virtuous form cannot be exercised for terminating one's life.

7.32 In yet another case, Andhra Pradesh High Court has upheld section 309 of the Indian Penal Code. Therefore, a right to commit suicide is not an offence within the jurisdiction of the Bombay High Court, whereas, it is an offence in Andhra Pradesh. Under the circumstances, it is necessary
for the Supreme Court to settle this point by taking into account all the relevant factors. Even the Government can direct itself for a fresh look at the matter for a comprehensive assessment for retention or amendment of section 309 as the case may be.

7.33 This researcher has also dealt with the point of hunger strike and self-immolation in details as the aspects of liberty. It has been observed that hunger strike may not constitute an attempt to commit suicide except when the striking person reaches a critical state from which onwards the striking person may be endangering his life. A person is permitted to continue with his hunger strike and the law awaits an opportunity till the person reaches a critical stage, that is, initially there is abetment by law and then prosecution by law.

7.34 The issue of self-immolation has been discussed in the light of incidence of Sati of Roop Kunwar. If pyre-immolation occurs due to force, then it is clearly a case of homicide and if it is a voluntary act of a person, it will be suicide. The Government has now passed the Commission of Sati (Prohibition) Act, 1987 and it now remains to be seen how far this Act will check the incidence of Sati.

7.35 The issue of the right to die can also be discussed in the light of euthanasia, organ transplant, amniocentesis, cryogenics, etc. It should be discussed in the context of present day society where people live in utter poverty, where basic need of food, shelter, clothing, medical treatment, education still remain unfulfilled. The illiterate population live in queer circumstances, selling or pledging their progeny for money or individuals selling their blood or transplanting organs for livelihood. Therefore, discussion
on the right to die will be complete only if all the above aspects are taken into account.

7.36 Whereas Article 21 is harmonious and congruent with the International Covenant of Human Rights in a civilized society, it also remains independent of these covenants and stands above liberty as a monument of right to life and personal liberty. In Jolly George Verghese case the Supreme Court transplanted Article 11 of the International Covenant on Civil and Political Rights into fair procedure in Article 21 of the Constitution. To recover debts by the procedure of putting one in prison is violative of Article 21, unless there is proof of his wilful failure to pay the debts. Thus under Article 21, a new right was created. It was Justice Krishna Iyer who generated a new type of judicial power through his superb essay on access and poverty jurisprudence and gave protection to honest and indigent debtors from arrest for the recovery of debt under section 51 (b) of the Code of Civil Procedure, a great steller pointer in the judicial firmament.

7.37 In the same Chapter the concept of liberty vis-a-vis the rights of prisoners and undertrials is discussed exhaustively. A new concept has been developed by our Supreme Court for prisoners and undertrials because our Constitution is silent on the plight of prisoners and how they should be treated in prisons in keeping with human dignity. It is ironical that in a country where a jail term was once considered an essential part of the grooming of politicians, prison reforms have remained neglected so long. Even today prisons in India are governed by the Prisons Act of 1894 and even the jail manuals prepared in colonial days are still in use. It is not surprising that the conditions in jails are progressively deteriorating. More intriguing is the fact that the punishment policy which stresses on rehabilitation is not
reflected in the manner of treating criminals during imprisonment. As a result the prisoner is deprived of the personal liberty and right to life, thus seriously damaging his prospects of leading a normal reformed life after release.

7.38 The treatment which is meted out to women prisoners, juvenile delinquents is worse. They are given no opportunity to express their grievances and since most of the prisoners are not conversant with their legal rights, the Supreme Court has, of late, outlined a number of steps in order to bring prison life under greater judicial surveillance. In the prisons, the inmates are tortured and maltreated by jail officials and policemen. The Indian Penal Code (section 330 and 331) deals exhaustively with the offence of torture, but the cases of trial and conviction under these provisions are few. It is really surprising that against these erring officials no departmental inquiry is held for torture or illtreatment except when death has taken place within jail premises.

7.39 To prevent all these things from happening a new policy is badly needed at the national level to take care of the wider aspects of prison administration as well as install an effective machinery to ensure that prison life does not destroy the urge for rehabilitation which is the essence of punishment.

7.40 In Chapter V New Dynamics of Processual Justice emerging from Maneka Gandhi's case have been discussed. The laws relating to prisons, prisoners and under-trials have received revolutionary interpretation in the recent years. In this chapter one more aspect of personal liberty of prisoners and undertrials have been dealt with and that is about bar fetters and handcuffing of prisoners. Our Supreme Court has rightly expressed the view that
even confirmed criminals deserved better treatment in our prisons and the auth-  
orities should not indulge in custodial violence and torture for the sake of  
maintaining discipline in the prison. This researcher has reached the conclusion  
that prisoners and under-trials escape from the prison not because they are  
dangerous criminals but because of corrupt and lax administration.

7.41 In the same chapter it has been discussed how our Supreme Court  
has tried to give certain rights like right to legal aid, right to bail, right  
speedy trial a constitutional status by including all these rights within the  
purview of Article 21 of our Constitution. Further a detailed discussion  
is made on whether Death Penalty is violative of Article 21 of our Constitution.  
Our Supreme Court has specifically laid down first in Jagmohan Singh's case\(^{(15)}\) and later on in Bachan Singh's case\(^{(16)}\) that taking of life or giving of death  
penalty is permissible under the Constitution, provided the procedure laid  
down in a particular statute or law is followed. Sensitive issues like hanging  
by rope, prolonged incarceration of prisoner under sentence of death and  
striking down of section 303 I.P.C. have been considered and discussed at  
length.

7.42 In Chapter VI under the head Courts and Liberty, the concept of  
Liberty and Habeas Corpus has been discussed in great detail. Firstly, the  
historical development of the Writ of Habeas Corpus in the Common Law  
system is given, then its use during emergency and in peace time is also  
discussed. In this Chapter in the main text English Law is discussed and  
wherever necessary, the Indian cases are given in the foot notes (with short  
commentary) to show comparison between the law prevailing in England and  
India with regard to Habeas Corpus.
7.43 During the early periods, the Habeas Corpus was not connected with the idea of liberty; it was used to ensure physical presence of a person in a Court of law. It was sometimes taken that liberty was closely identified with the authority of the Courts to issue the writ of Habeas Corpus. Habeas Corpus is considered to be a quick and efficacious remedy which can be made use of at any stage of legal process. It is not necessary that the person should be confined within the four walls of prison. A person's liberty can be curtailed by any kind of restraint and when liberty is affected and no other remedy is there, the person concerned can always ask for a writ of Habeas Corpus. Two types of restraints have been discussed in the thesis: (1) Quantitative and (2) Qualitative.

7.44 Now a days the writ of Habeas Corpus is used to gain custody of infants or for any kind of detentions. It will be of interest to note here that whenever a writ of Habeas Corpus is asked for to set at liberty, the person affected, the writ of Certiorari can also be made use of in conjunction with Habeas Corpus. The certiorari-in-aid makes it possible for the Courts to examine the whole record and to quash it if the grounds are shown. The nature of remedy sought cannot affect the principle of law. In both the cases (Certiorari and Habeas Corpus) it is the liberty which is in issue.

7.45 In the same Chapter liberty during emergency has been discussed. It was the advent of emergency in the year 1975 that has brought into focus the significance of Article 21 of the Constitution. The Presidential order of 27th June 1975 made under Article 359 (1) suspended enforcement of fundamental rights under Articles 14, 21 and 22. The obliteration of the power of judicial review of the executive action was highly obnoxious. The laws passed during emergency provided in effect that any one can be put in jail
without a trial and that no citizen can plead a right to liberty based on Common Law, natural law or on rules of natural justice. The graveman of the emergency were the Amendments of Maintenance of Internal Security Act which completely stiffled personal liberty. Under the impact of emergency all the three wings of the government - the Legislature, the Executive and even the Judiciary - caved in under unwarranted pressure, thereby impinging badly on the life and liberty of the citizen. Now by the Constitution (Forty-Fourth Amendment) Act, 1978 a change has been brought about in Article 359 (Chapter XVII) that the President in his Proclamation of Emergency could not touch the fundamental rights enshrined in Articles 20 and 21. The impact of emergency was so tremendous that after the emergency, the legal fraternity, the judiciary and even the litigants, as well as philanthropic organisations started relying heavily on Article 21 in the hope of safeguarding personal liberty.

7.46 In this thesis certain laws made by the Government for protecting the integrity of the nation and for providing security to the people from militant or terrorist activity have been examined. There is a wide scope for research in these areas, because the laws which are passed by the Executive once again remind us of the emergency period.

7.47 Today the situation in India is such that inspite of stringent laws, the murderous violence in Punjab is threatening to turn into the ugliest crises this country has faced since independence. Internal subversive forces within the country are multiplying and the unity and integrity of India is at stake. Under such circumstances for controlling the situation if stringent laws like Fifty-ninth Amendment Act, 1988 are passed, no objection can be taken or no distrust can be shown towards the Executive. In times of crisis no person
should attach any significance to liberty of an individual.

7.48 In the same chapter a new dimension of law is evolved and that is 'Restitutive Justice'. For long Supreme Court of India has been struggling hard to innovate new jurisprudence of access to justice and to evolve a new doctrine of accountability of the State for constitutional and legal violations adversely affecting the interests of the weaker elements in the community. The Court with its obsessive concern with the sanctity of fundamental rights has become an effective agent of social change and is trying to vindicate the constitutional and legal rights of the victims by affirmative approach and in this process under Article 21 of the Constitution new fundamental rights have emerged. Our Supreme Court has opened up new avenues for citizens to get compensation when they become victims of State inflicted wrongs or when public servants due to lack of sensitivity to human dignity or lack of commitment on their part behave in a careless or lethargic manner.

7.49 In this very Chapter the dismal picture of wide spread injustice suffered by the multitude of the destitute, dealing with Social Action Litigation has created a new ray of hope; thanks to Article 21 which has an inbuilt essence of life and liberty. Our Supreme Court played an important role besides displaying of judicial activism in adopting public interest litigation system. Though it had a slow impact in the initial stages of its introduction, the ball was set rolling to bring about a consciousness in the Executive to exercise restraint before intruding upon liberties of the people.

7.50 Public Interest Litigation refers to matters in which public are interested and which serves to highlight the problems suffered by poor and weaker sections of the society and if employed appropriately it can result
in bringing relief to them expeditiously. The need of the day is to simplify the procedure whereby it becomes possible for social action groups or individuals to approach courts for setting right public grievances by filing petitions or even by writing letters. Some arrangement should be made whereby monitoring function or follow up actions can be taken by the Courts to implement their directives and ensure compliance of their orders.

7.51 From all the above discussion we can conclude that liberty is multi-dimensional. Judiciary under our Constitution stands as a sentinel to protect the fundamental rights and personal liberty of the people and they have emerged as philosophers and guides on the social, economic and political scene.

7.52 The concept of liberty can never be static. It changes with time. With the advancement of civilisation, encroachment upon personal liberty is bound to be more and needs more protection than before. The Courts will have to be more vigilant than ever. At the same time personal liberty should not be abused, as is apparent from the state of affairs prevailing in this country. There cannot be liberty to commit murder or rape or liberty to create lawlessness or liberty to burn brides, the list of which can be unending. The need of the day is to educate our masses. By education, we do not mean knowledge from books, but it should be all round education - an awakening as we call it so that people of India become responsible citizens.

7.53 The problems facing the Indian people are numerous - skyrocketing poverty, illiteracy, chronic unemployment, population explosion, environmental pollution, health of the people and many more. The people of India can achieve liberty in the true sense only when they have all the bare necessities of life. If an individual is worried about his next meal, how can he think
of liberty?

7.54 The proper solution is to have rational amalgamation of law and liberty and for which we can appropriately take refuge under the wise counselling given by Justice Mathew in the following words:

"The major problem of human society (today)\(^{(17)}\) is to combine that degree of liberty without which law is tyranny with that degree of law without which liberty becomes licence; and, the difficulty has been to discover the practical means of achieving this grand objective and to find the opportunity for applying these means in the ever shifting tangle of human affairs. A large part of the effort of man over centuries has been expanded in seeking a solution of this great problem."\(^{(18)}\)

In the above para Justice Mathew has given a solution to achieve liberty with reference to situation prevailing in India. Liberty should be such that it must suit the conditions and circumstances prevailing in our country and its main object should be proper and full development of millions of hungry people, the lowly and the destitute.

7.55 The concept of liberty varies from country to country and from society to society. For example, in western countries liberty is at a much advanced stage, whereas here in India we need liberty merely to comply with our primary needs of bare living. This bare living should be nurtured further by liberty where an individual can have an all round development in all the spheres of life and which includes material, moral and spiritual development.

7.56 This we can strive to achieve through Article 21 of our Constitution.

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NOTES. Chapter Seven.

2. AIR 1978 Delhi 308.
3. AIR 1980 A.P. 132 (F.B.)
4. Please see the comment of an eminent Jurist Dr. T.K. Tope in his article 'Judicial Activism and the Right to Life and Personal Liberty.' AIR 1979 (Journal section) 89.
6. Id. at p. 1767.
17. Words in Bracket mine.

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