CHAPTER VIII

CONCLUSION

There can neither be any finality in conclusion nor can there be any final solution to the eternal problem of liberty under law. Yet it is proposed to conclude this present study with a brief resume of the inferences drawn from the foregoing chapters along with a few suggestions emerging out of these inferences, however tentative these inferences and suggestions may be.

The historical perspective of the development of personal liberty as a constitutional value in the United Kingdom and as a constitutional guarantee in the United States, presented in the first chapter of this study, brings forth the historical metamorphosis of the pledge the English noblemen extracted from King John that he would not deprive them of life, liberty or property except according to "the law of the land" into the modern constitutional guarantee that 'no persons shall be deprived of his life, liberty or property without due process of law'. It unfolds

1. Supra, pp. 15-68.
the truth that liberty and justice are inseparable values and that the evolution of personal liberty as a constitutional right has really been the evolution of 'due process of law' as a standard of protection for the personal liberty of the individual against the authority of the State. The historical analysis also reveals the crucial significance of judicial process as the bulwark of personal liberty. The chapter further shows that the requirements of 'due process of law' as a protection for the liberty of the people have also been recognised by the international legal order.2

It is apparent from the analysis of Indian thought, attempted in the second chapter, that the values of liberty and justice are deeply rooted in the fundamentals of Indian philosophy and political thought. The discussion leads to the inference that a conscious effort to assimilate the constitutional models and methods which we accepted from the West into the cultural values which we inherited from the past, would yield fruitful results in our endeavour to expound the proper meaning and scope of personal liberty and to evolve a just and flexible normative concept to regulate that liberty.

2. Supra, pp. 69-82.
The political history of freedom struggle in India, as discussed in this chapter, shows that the people's demand for freedom was not a demand for mere change of rulers. Their demand was for a new political and legal order wherein the dignity and liberty of the individual would be respected as an enforceable limitation on the powers of the State. The fact that they were fighting for their freedom against an exploitative political order wherein a semblance of procedure laid down by a semblance of law was all what was required to deprive the people of their life or personal liberty indicates that their demand for liberty, in substance, was a demand for 'due process of law' as a guaranteed protection for their personal liberty.

Further, the close scrutiny, made in this chapter, of the framing of Article 21 in the Constituent Assembly unfolds the truth that the Constituent Assembly was not against guaranteeing "due process of law" as a protection for personal liberty in Art.21. The analysis in fact reveals that the real intention of the Constituent Assembly was in favour of the retention of the 'due process' clause in Art.21, though that intention was unduly clouded by the intention of a few prominent members in the Assembly who, by a historical coincidence, were also at the helm of affairs

4. Supra, pp. 105-129.
5. Supra, pp. 130-169.
in the government of the day. This historical truth is hoped to be of tremendous importance for arriving at a proper interpretation of the expression "procedure established by law" in Art.21.

The discussion and evaluation of the judicial process in the interpretation of Art.21 in Parts II and III of this study bring to light many interesting facets of the liberty jurisprudence in India.

The analysis of the decisions in the third chapter⁶ shows that through a liberal judicial interpretation, 'personal liberty' in Art.21 has emerged as a compendious and residuary concept, capable of absorbing into itself any new and emerging human right, competing for constitutional recognition.

But the discussion in the fourth chapter⁷ reveals that this liberalism of the Supreme Court in interpreting the expression 'personal liberty' and in delineating its contents has not been matched by the Court's attitude towards the protection of personal liberty. The analysis of the decisions brings into sharp focus the persistent refusal of the Court to interpret the standard of protection for personal liberty in Art.21 as 'due process of law', the

---

7. Supra, pp. 227-325.
The critical exposition of the judicial techniques and arguments adopted by the Court in Gopalan, defending its denial of 'due process' clause in Art.21 has shown that the Court was only making a policy choice in the conflict between the claim of the individual for a 'due process' of law as a protection for his personal liberty and the claim of the State for absolute authority to deprive personal liberty in the name of law and order, and that the choice was made under the cloak of constitutional logic and textual inevitability. The analysis exposes the myth of mechanical jurisprudence in constitutional adjudication and it shows that without being confronted with any doctrinal or constitutional hurdle the Court could have interpreted the expression "procedure established by law" in Art.21 as "due process of law", and have reconciled the liberty of the individual with the authority of the State through an open, informed policy-making mode of constitutional adjudication.

The inquiry in the fifth chapter brings to surface the fact that having found itself in a dilemma between its own obsession with the expression "due process of law" on the one hand and its awareness as to the gross

8. Supra, pp.241 et. seq.
inadequacy of the standard of protection for personal liberty in Art.21, as interpreted in *Gopalan*, on the other, the Supreme Court has attempted to evolve an alternate technique to secure a meaningful protection for personal liberty. As a result, the inquiry reveals, instead of deducing the elements of 'due process' from within Art.21, the judicial attempt has been to gather those elements from without Art.21, through the 'alternate strategy' of interlinking Art.21 with Arts.14 and 19.

The detailed and elaborate analysis of the decision in *Maneka*, presented in the sixth chapter, helps to clarify the doubtful claim made in different quarters that *Maneka* has unequivocally inducted a 'due process' clause into Art.21. The discussion brings forth the failure of the Court in *Maneka* to interpret the expression "procedure established by law" in Art.21 as embodying the requirements of "due process of law". Instead, the Court has preferred only to adopt the 'alternate strategy' to evolve the "just, fair and reasonable procedure" formula as a protection for personal liberty in Art.21. The analysis of the reasoning and argumentations advanced by the Court reveals that the theoretical foundation of the 'alternate strategy' is not sound and stable and that the "just, fair and

11. *Supra*, pp.420 et seq.
reasonable procedure" formula founded on such an unsound strategy is not an adequate substitute for the standard of 'due process of law' as a protection for personal liberty. All this leads to the inference that the claim about an unqualified induction of a 'due process' clause into Art.21 by **Maneka** cannot be accepted without reservation. The inquiry, however, shows that **Maneka**, despite its failure to induct a 'due process' clause in Art.21, appears to have imparted a 'due process' dynamism to the judicial process in the field of personal liberty.

The survey and analysis of the post - **Maneka** decisions of the Court, made in the seventh chapter further fortifies the above inference. The survey shows that the post - **Maneka** Court has displayed an unprecedented activism and creativity; and read into Art.21 many new rights and liberties, proceeding on the assumption as to the existence of a 'due process' clause in Art.21 after **Maneka**. The inquiry reveals that because of the above assumption during this spell of 'due process' dynamism the Court has failed to address itself to the necessity of articulating and strengthening the theoretical foundation for a "due process" framework within Art.21; and that that the failure has eventually recoiled both on the possibility of the emergence of a 'due process' framework in Art.21 as well as

---

on the 'due process' dynamism of the Court. The second line of the post — Maneka decisions such as Bachan Singh and A.K. Roy, discussed in this chapter only confirm this recoiling. The analysis has shown that the 'new' rights and privileges delineated by the Court as the content of the "just, fair and reasonable procedure" could not become as integral parts of Art.21 in the absence of a 'due process' framework within that Article, capable of accommodating and assimilating those rights. A.K. Roy, for instance, demonstrated the myth of Maneka and the barrenness of Art.21 on the face of a State — made law which authorised the deprivation of personal liberty according to a set of procedures which were patently 'unjust, unfair and unreasonable' and were bereft of those 'new' rights claimed to have been read into Art.21. The inquiry into the post—Maneka judicial process, thus, unfolds a paradox: a judicial display of 'due process' dynamism under Art.21 without having a 'due process' clause in that Article.

It follows from what has been discussed so far that even after four decades of judicial process in the interpretation of Art.21, the Supreme Court does not appear to have succeeded in accomplishing a due process doctrine as

13. Supra, pp.495 et.seq.
14. Supra, pp.452 et.seq.
a principle of constitutional adjudication in order to safeguard the personal liberty of the individual against unjust and unreasonable legislative action of the State. The standard of protection available in Art. 21 still remains to be the poor and shrunken formula of "procedure established by law" - a standard which has proved to be sterile as a limitation on the legislative powers of the State. Thus all the attempts made in the Constituent Assembly as well as the persistent efforts made in the judicial process to give the contents of 'due process' to Art. 21 and to secure an adequate protection for personal liberty without using the language of 'due process' clause seem to have failed.

Therefore, in view of the above findings and conclusions, it is suggested that the standard of protection which Art. 21 itself secures to personal liberty through the expression "procedure established by law" should be interpreted to mean "due process of law", without rendering that Article dependent on, and subservient to, Arts. 14 and 19. Such a forthright interpretation of the expression "procedure established by law" as 'due process of law' alone can render Art. 21 as a limitation on the legislative power of the State and such an accomplishment of a 'due process' clause as a criterion for judicial review in Art. 21 alone can secure an adequate and reasonable protection which is
matching to the value and importance of personal liberty as a fundamental right.

Since the deprivation of personal liberty can deprive a person of all other valuable rights and such deprivation is possible without necessarily attracting the applicability of either Arts.14 or 19, it is imperative that Art.21 itself should have an independent standard of 'due process' protection within that Article. That apart, 'personal liberty' in Art.21, as evolved through judicial process, has become the most compendious and comprehensive formulation of liberty, transcending the traditional notion of mere freedom from physical restraint. It encompasses many diverse and less tangible attributes of personal freedom which are recognised as fundamental to human dignity and individual autonomy. It is, therefore, highly essential and desirable that Art.21 must have within itself an equally comprehensive and flexible standard of protection embodying the fundamental principles of justice and reason and thereby imposing the requirements of 'due process of law' as a limitation on the authority of the State so that whenever any agency of the State, including the legislature, attempts to deprive the people of any of

15. See, supra, pp.420 et seq.
16. See, supra, pp.181 et seq.
those fundamental and diverse attributes of freedom, forming part of personal liberty, the requirements of 'due process of law' would come into play.

It is submitted that such an interpretative incorporation of a 'due process' clause into Art. 21 by construing the expression of "procedure established by law" would only be consistent with the spirit and philosophy of the Constitution; with the high value and purpose of personal liberty as a constitutional guarantee; with the aspiration and intention of the people who fought for the freedom and liberty and made this Constitution as an instrument to realise those ideals; \(^{17}\) with the cultural and philosophical (or spiritual) heritage of this country; \(^{18}\) with the history and experience of other civilized democracies in the world; \(^{19}\) and with the emerging standards of human rights in the international legal order. \(^{20}\)

Of course it may be true that an unequivocal induction of a 'due process' clause into Art. 21, as suggested above, may evoke a few criticisms as well, though the facts of history have demonstrated the untenability of most of those criticisms.

17. See, Ch.II, supra.
18. Ibid.
19. See, Ch.I, supra.
20. Ibid.
One may say, for instance, that the requirements of 'due process', if it is inducted into Art.21, would always be at war with the claimed need for governmental efficiency in the field of public security and law and order. It may be remembered, at the outset, that speed and efficiency or expediency and convenience are not the sole virtues of a democratic government. As Justice Frankfurter once said:21

"The establishment of prompt and efficacious procedures to achieve legitimate State ends is a proper State interest worthy of cognizance in constitutional adjudication. But the Constitution recognizes higher values than speed and efficiency. Indeed one might fairly say of the Bill of Rights in general, and the Due Process Clause in particular, that they were designed to protect the fragile values of a vulnerable citizenry from the overbearing concern for efficiency and efficacy that may characterize praise worthy government officials no less, and perhaps more, than the mediocre ones".

The adoption of a 'due process' clause should not be misconceived as a negation of the police power of the State to restrain and regulate the use of liberty in order to promote public security, order and welfare.22 On the


contrary, 'due process of law' is only a guarantee against the arbitrary exercise of the police power of the State under the pretext of efficiency and expediency. As McWhinney\textsuperscript{23} has rightly described, 'due process of law' is a 'guarantee of reasonableness in relations between Man and the State'; and it is in this sense the 'due process' clause has come to be an indispensable condition of ordered liberty in every civilized democracy.

The doctrine of 'due process' was not born out of a delphic oracle. It was born out of the realities of human nature and the history and experience of the political organisation of the human societies. It was born out of the collective instinct of mankind for fairness and justice against governmental oppression and arbitrariness. It is the same instincts that one can perceive from the procedural protections of Magna Carta down to the constitutional guarantee of 'due process of law'.\textsuperscript{24}

'Due process of law' is not a mechanical or inflexible instrument, cramping the efficiency of the administration. As Pandit Thakur Das Bhargava\textsuperscript{25} said in the Constituent Assembly, 'the due process clause would not weaken the administration, but of course the administration

\begin{itemize}
\item \textsuperscript{23}McWhinney, \textit{Judicial Review, op.cit.}, p.205.
\item \textsuperscript{24}See, Ch.I, supra.
\item \textsuperscript{25}C.A.Deb., Vol.VII, p.848.
\end{itemize}
would not have its way'. And as Justice Warren of the U.S. Supreme Court has rightly said, "If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system".26 To quote again Justice Frankfurter:

"'Due process of law' as a standard only operates as a limitation upon the legislative power of the State in as much as the determination by the legislature of what constitutes proper exercise of police power is not final or conclusive, but is subject to the supervision by the Courts. And as a standard, 'due process' is not a mechanical instrument. On the contrary, it is a delicate process of adjustment inescapably involving the exercise of judgement by those whom the Constitution entrusted with the unfolding of the process".27

Therefore the argument that the induction of a 'due process' clause would hamper the efficiency of administration need not be overemphasized.

Of course, one may still object to the introduction of a 'due process' clause in Art. 21 on the ground that the concept of 'due process of law' is too vague, imprecise and elusive to serve as a meaningful criteria of judicial review and that the consequential uncertainty as to the contents of 'due process' would leave open an undesirable degree of leeway for judicial choice and policy-making.

But such an objection can be said to have been founded on a misconception of about the very nature and dynamics of judicial process in constitutional adjudication. Both constitutional logic as well as experience show that it is often the vagueness of such concepts as 'liberty', 'equality', 'reasonableness', or 'due process of law' that gives vitality to the written constitution, enabling it to grow from within and to adapt itself to the changing values and needs of the society it saves and endure as the fundamental law. Such concepts are only the vehicles of national values which bear the imprint of every generation that reads and interprets them. And as Cardozo said, the content of constitutional immunities is not constant but varies from age to age. In the context of the American Constitution, which contains such ambiguous expressions, Edward H. Levi says that a change of mind among judges in

interpreting such expressions from time to time is inevitable when there is a written constitution and that a written constitution must be enormously ambiguous in its general provisions. Referring to the very intention of the framers of the constitution, he says: "Perhaps they expected the words to change their meanings as exigencies arose. Perhaps they realised that ambiguity was best".

Therefore, even admitting that the concept of 'due process of law' is vague it is submitted that the vagueness of the concept by itself need not and cannot be a deterrence to the adoption of that concept. For, vagueness is neither unique to the 'due process' clause, nor is it unique to the Indian Constitution. History demonstrates the onward march of many constitutional democracies under the majesty of such 'glorious ambiguities' as 'liberty', 'equality', 'basic structure', 'reasonableness' and 'due process of law'.


30. Ibid., at p.65.

31. Shirley M. Hufstedler, "In the Name of Justice", 14 Stan. Lawyer 3, 4(1979) as cited in Mauro Cappelletti, The Judicial Process In Comparative Perspective, Clarendon Press, Oxford (1989) pp.29-30. Hufstedler says: "I intend no irony in describing the words from the Bill of Rights as 'glorious ambiguities'. The very elusiveness of their content has made it possible to shape and reshape constitutional doctrine to meet the needs of an evolving, pluralistic, free society. Precision has an honored place in writing a city ordinance, but it is a death warrant for a living constitution".
As a matter of fact, the concepts of 'due process of law' and 'police power' are in no way alien to the Indian Bill of Rights. They are integrated into the scheme of Art.19 of the Constitution. As Justice Mathew held in the **Fundamental Rights Case**:

"The limitations in Article 19 of the Constitution open the doors to judicial review of legislation in India in much the same manner as the doctrine of police power and its companion, the due process clause, have done in the United States. The restrictions that might be imposed by the legislature to ensure the public interest must be reasonable and, therefore, the Court will have to apply the yardstick of reason in adjudging the reasonableness. If you examine the cases relating to the imposition of reasonable restrictions by a law, it will be found that all of them adopt a standard which the American Supreme Court had adopted in adjudging reasonableness of a legislation under the due process clause".  

The Learned Judge also explained:

"The reason why the expression 'due process' has never been defined is that it embodies a concept of


fairness which has to be decided with reference to the facts and circumstances of each case and also according to the mores for the time being in force in a society to which the concept has to be applied". 34

Further, from a functional point of view, one may notice that despite the disagreements over various elements of 'due process' there can hardly be any dispute as to what is at the core of that concept. As J.M. Gora 35 says, at a minimum, 'due process' requires reasonable notice of the charges or accusations made against the individual and an opportunity to be heard in one's defense in a hearing that is fair and not a sham. Justice Frankfurter said:

"The right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardship of a criminal conviction, is a principle basic to our society.... The validity and moral authority of a conclusion largely depend on the mode by which it was reached. Secrecy is not congenial to truth - seeking, and self righteousness gives too slender

34. Ibid.
an assurance of rightness. No better instrument has been devised for arriving at truth than to give a person in jeopardy of serious loss notice of the case against him and opportunity to meet it. Nor has a better way been found for generating the feeling, so important to a popular government, that justice has been done". 36

Finally one may still have an apprehension about the democratic legitimacy of the judicial policy - making under the cover of 'due process' for we may have to depend on judges to declare what is required by 'due process of law'. But a proper perspective of judicial policy - making through the instrumentality of judicial review in the context of an entrenched Bill of Rights in a written constitution would surely dispel the above apprehension.

The very adoption of a written constitution by a people is reflective of their distrust in an unlimited government. The conception of a fundamental law is surely a check on the majoritarian principle of democracy. As Justice Mathew has pointed out:

"Our Constitution is the offspring of two divergent principles, namely popular sovereignty and

limitation there on by superior enacted natural law principles. Popular sovereignty suggests will and fundamental law suggests limits. One conjures up the vision of an active State, the other emphasises the negative restricted side of the political problem. The principle behind it is that men in pursuit of their immediate aims are apt to violate rules of conduct which they would nevertheless wish to see generally observed. Because of restricted capacity of our minds, our immediate purpose will always loom large and we will tend to sacrifice long term advantage to them. It may be possible to harmonize these seeming opposites by a logical sleight of hand that the doctrine of popular sovereignty and fundamental law are fused in the Constitution, which was popularly willed limitation. The propensity to hold contradictory ideas simultaneously is a significant feature of mankind at all stages of its history and it is no wonder that that feature got embodied in the most significant expression of the political will of the people of India".37


The doctrine of judicial review is only the functional fall-out of such a conception of fundamental law as a check on absolute majoritarianism. Thus the Constitution envisages two institutions to reflect the will of the people and the limitation on that will separately—the legislature and the judiciary. As justice Mathew says, 'the legislature which is to represent the immediate interest of the people embodied the doctrine of popular sovereignty and the guardianship of the fundamental law was assigned to the courts.'38

Obviously, therefore, the introduction of an entrenched Bill of Rights in the fundamental law is surely to expand the scope of judicial review and to render the role and responsibility of the courts more onerous and challenging. Mauro Cappelletti puts the whole issue succinctly thus:

"It seems undeniable that this phenomenon (of entrenched bill of rights), which characterizes the constitutional life of very large and growing areas of the world, has been caused, inter alia, by the crisis of, and by the deepening distrust in the giant legislator. As long as national legislatures were accepted as 'supreme', no 'higher law' and,

38. Ibid., at p.2.
most especially, no bills of rights binding upon legislatures were considered necessary or, indeed, even possible. They have become both possible and necessary only at the moment people have felt that certain principles and rules enshrining fundamental values could be — indeed were — threatened by the legislatures themselves....

Bills of Rights, ... cease to be mere philosophical proclamations at the moment their actual enforcement is entrusted to the courts, ... the enforcement of a bill of rights greatly increases the scope of judiciary law', i.e. judicial creativity".39

And, as noted earlier, such declarations of bill of rights often embody in them vague, elusive and value — loaded concepts as liberty, equality, property, reasonableness or 'due process' which do not obviously have any fixed frontiers or definite content.

And naturally, as Ehrlich40 said, the more general the legal proposition, the greater the freedom of the judge.


In this regard the concept of 'due process of law' can be regarded only as any other value - loaded concept as 'liberty' or 'reasonableness'. There is nothing unique or extraordinary about 'due process' as a criteria of judicial review.

In the process of delineating the content of those concepts and enforcing them against the political branches of government, the court is inevitably engaged in policy-making, which Learned Hand has described as an authentic bit of 'special legislation'.\(^{40a}\) That inevitability is a constitutional truth.

In the process of constitutional adjudication, involving interpretation and enforcement of fundamental rights, the Court is often faced with the dilemma either to be 'bravely creative, or to be thoroughly ineffective'.\(^{41}\) Obviously the Court cannot afford to be 'thoroughly ineffective' consistent with its constitutional obligation as a protector and guarantor of the fundamental rights of the people.\(^{42}\) The nation expects, as the Constitution commands, the Court to guide it on to its goal, of a just political order. Our legislatures have been shaped by an

\(^{40a}\) See Learned Hand, Bill of Rights, p.26.

\(^{41}\) M. Cappelletti, op.cit., p.30.

\(^{42}\) See, The Constitution of India, Arts.13 and 32.
understanding that the judiciary will help charting governmental policy and will share the 'power to govern'.

Therefore it is unrealistic to perceive an antinomy between democracy and 'due process', on the ground that that clause would entail extended scope for judicial review. On the contrary, history shows that a democracy can survive only through the preservation and protection of the fundamental liberties of man against governmental oppression with reference to the principles of justice and reason, the embodiment of which is called 'due process of law'. And as Judge Koopmans said: 'Democracy and human rights are, empirically speaking, closely connected; protection of one at the expense of the other therefore always runs the risk of being counter-productive.... If we want to retain democracy, the courts should face their share of the job'.


And the concept of 'due process of law' which is an injunction against governmental arbitrariness, intolerance and oppression, only provides the criteria for the judges to do their 'share of the job'. And in a democracy, emphasising the importance of 'due process', Justice Frankfurter once said:

"The heart of the matter is that democracy implies respect for the elementary rights of man, however suspect or unworthy; a democratic government must therefore practice fairness; and fairness can rarely be obtained by secret, one-sided determination of facts decisive of rights...." 47

46. McWhinney, op.cit., p.205.


See also M. Cappelletti, The Judicial Process in Comparative Perspective, op.cit., p.46. After a thorough analysis of the whole issue, Cappelletti sums up thus:

"Clearly, the notion of democracy cannot be reduced to a simple majoritarian idea. Democracy, as already stated, also means participation, and it means tolerance and freedom. A judiciary reasonably independent from majoritarian whims can contribute much to democracy...."

As Dr. Radhakrishnan said, 'the ethical basis of democracy is the sacredness of human personality and respect for the individual. Democracy is a faith in the spiritual possibilities of man'. See Occasional Speeches and Writings, Second series, February 1956 - February 1957, pp.284-86.
Thus it is reasonably clear that none of the above mentioned objections can find support either in constitutional logic or experience. It is submitted, therefore, that a 'due process' clause can be inducted into Art.21 undeterred by any of those objections. For, after all, we have the strength of our instincts for justice and freedom; we have our conviction that democracy in India is matured and is deeply rooted in its cultural heritage; we have our trust in the judiciary and in its resilience, ability and wisdom to 'preserve constitutional continuity by mediating successfully between an unchanging constitution and a changing world'; we have our faith that the availability of 'due process' does make things better, rather than worse, does make it more difficult for arbitrary or oppressive government action to occur in violation of the liberty of man; and finally we have our commitment, as any other civilized people, to the principle that, 'when all is

48. See Ch.II, supra. pp.83 et seq.

49. The landmark decisions of the Court in Golak Nath V. Punjab, AIR 1967 SC 1643; Kesavananda V. State of Kerala, AIR 1973 SC 1461; Election Case, AIR 1975 (Supp.) S.C.C.1.; Cooper, AIR 1970 SC 564; Maneka, AIR 1978 SC 597; and the post-Maneka judicial activism and creativity and the evolution of Public Interest Litigation (see Ch.VII, supra,) all would provide a sufficient justification to have such a faith in the Court.

said and done, it is the process by which the government acts, not necessarily the results which are reached, that is of ultimate importance. For, if the high command of 'due process of law' is obeyed, as a reality as well as a norm, the evils of official tyranny will not prevail.

Hence may it be concluded with the hope that the Supreme Court of India will make a comprehensive review of its previous decisions on this subject matter and reinterpret Art.21, as suggested in this study, and thus will eventually induct a 'due process' into that Article as a complete and adequate protection for the most fundamental of all fundamental rights - the right to personal liberty.

***

"The worth of a State, in the long run, is the worth of the individuals composing it ... a State which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes... will find that with small men no great things can really be accomplished...."

(J.S. Mill, _On Liberty)._
ANNEXURE