ABSTRACT

Right to life and personal liberty is the most cherished and pivotal fundamental human rights around which other rights of the individual revolve and, therefore, the study assumes great significance. The study of right to life is indeed a study of the Supreme Court as a guardian of fundamental human rights. Article 21 is the celebrity provision of the Indian Constitution and occupies a unique place as a fundamental right. It guarantees right to life and personal liberty to citizens and aliens and is enforceable against the State. The new interpretation of Article 21 in Maneka Gandhi’s case has ushered a new era of expansion of the horizons of right to life and personal liberty. The wide dimension given to this right now covers various aspects which the founding fathers of the Constitution might or might not have visualized.

The above stated revolution in the basic concept makes it imperative that the concept of right to life and personal liberty should be examined a new with reference to development, meaning, width and depth, along with judicial interpretation, justification for such liberal interpretation, and relation of Article 21 with the provisions of Article 32 and Directive Principles of the State Policy and International Human Rights Instruments. Further, the protection of this right is burning topics of the day. Hence an attempt has been made in this essay to examine the modern day standards adopted for protecting the right to life and personal liberty.

The Constitution said Woodrow Wilson, is “not a mere lawyer’s document.” It is, he said, “the vehicle of a nation’s life.” The Indian Supreme Court has created major reforms in the protection of human rights. Taking a judicial activist role, the Court has put itself in a unique position to intervene when it sees violations of these fundamental rights. “in India the guardian of democracy is not the legislative wisdom but the wisdom of the highest court of the land.” “The court has acted as protector of the workers, and at time played the role of legislator where labour legislation is silent or vague.”

The Supreme Court, as the arbiter and interpreter of the Constitution, serves not merely the negative purpose of checking excesses in judicial practice, but also the vital
and dynamic function of modulating the life of the nation. The Supreme Court is the guardian of the Constitution under whose protective wings the nation has prospered and grown to greatness. Thus, the law as seen in the wordings of the enactment gets a dynamic and wider scope in day to day events by the legal processes advanced by judicial creativity.

‘Right to life’ and ‘personal liberty’ is the modern name for what have been traditionally known as ‘natural right.’ It is the primordial rights necessary for the development of human personality. It is the moral right which every human being everywhere at all times ought to have simply because of the fact that in contrast with other beings, he is rational and moral. It is the fundamental right which enable a man to chalk out his own life in the manner he likes best. Right to life and personal liberty is one of the rights of the people of India preserved by the Constitution of India, 1950 and enforced by the High Courts and Supreme Court under article 226 and 32 respectively. In this essay we will discuss the modern and liberal interpretation given to the concept of right to life and personal liberty by the Indian Judiciary.

In Chapter I we will have an overlook on the traditional and narrow approach of the Indian constitution in interpreting Article 21 of the Constitution. Further, in the next part the discussion will focus on the different dimensions of Article 21 of Indian Constitution. In Chapter III it related with the The Constitutional Perspectives and Article 21 right to life by discussing some selected cases. In the next section we will discuss the meaning of judicial activism and arguments for and against judicial activism. We will also discuss and a comparative study with the Right to life and personal liberty in United States, United Kingdom Constitution.