

Relevance Of Article 21- Right to Life at Epidemic Like Covid 19

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ABSTRACT

Right to Life is the most important human right envisaged by the international community as well as the constitution of India which means lock stock and barrel. Right to life concretes every other right to happen, because when the people have life then only, they can fight for other rights such as right to education, human dignity, freedom and nationality etc. This article sought to analyses the elements of article 21 in the light of scenario of Covid 19 with an extended view. The entire planet has undergone the impacts of the havoc in everyday life owing to the rapid spread of the corona virus pandemic 2019(Covid 19) over the world. Many countries had to announced lockdown, command to shelter in place or issue stay at home order, to check the massive spread of the pandemic. Several arenas of the privacy of common people were also affected where the states had taken due care to release the personal data of people who had been quarantined and even the international community sought for it. The functioning of Arogya Sethu App in India hooks in to the ambit of right to privacy. Right guaranteed under Article 21A, government is under an obligation to make endeavor to impart educational facilities at all levels and under all circumstances. Indian population cannot pay to the basic technology which is currently being utilized to provide for the strayed school hours. The ones infected by Covid 19 as well as the one up and running on medical front are equally entitled under the right to health and medical care. Reflection upon the element of Right to food the State Government had taken time however assured constant availability of food stock to ration shops, but the migrant residents who did not have BPL cards were also considered by the government to avail food grains from ration shops. The effect of Covid 19 has called attention to the elasticity of the existing fundamental rights there by bringing forth prevailing loopholes of the system in to light.

Keywords: Article 21, Right to life, Right to Privacy, Right to Education, Right to Food, Rights of Prisoners, Right to health.

INTRODUCTION

The right to life is a basic right laid down in the Constitution of India has been in grave danger with the sporadic spread of corona virus pandemic affected across the country. The Covid 19 pandemic has created crucial impacts on everyone's life not only in India but whole over the world. Governments had taken urgent measures of supplying preventive vaccines as it was discovered to curb its spread to safeguard public and provided medical care to those who were in need. The right to life is tampered and curtailed in various aspects mainly right to health, right to education, right to privacy, right to food. Free from the ambit of Article 21 and other rights were also curtailed at the time of the epidemic. Article 21 of the Constitution of India states that, "No person shall be deprived of his life or personal liberty except according to the procedure established by law". The scope of Article 21 has been widened over the years through the application of golden rule of

interpretation to the term 'life'. The term includes all aspects of life that make a person's life meaning full, complete as well as worth living in a dignified way.

RIGHT TO PRIVACY

Privacy was considered to be positive morality in the olden days. In modern India, the matter of 'right to privacy' was discussed seriously for the very first time in the debate held at the time Constitutional Assembly. The right was further swung up in *MP Sharma vs. Satish Chandra (JAGANNADHADAS, 1954)* and eight Judges bench of the Supreme Court, while dealing with the power to search and seize documents from the Dalmia group, held that right to privacy is not a fundamental right and it is alien to the Constitution of India. In *Kharak Singh vs. State of Uttar Pradesh (AYYANGAR 1963 AIR 1295, 1962)*. Supreme Court held that right to privacy is an essential component of personal liberty though it was not incorporated as a fundamental right in the constitution.

In *Gobind vs. State of Madhya Pradesh (K Mathew IR 1975 SC 1378, 1975)* a three-judge bench of the apex court held that existence of a fundamental right to privacy and article 21 of the constitution. In *Maneka Gandhi vs. Union of India (M. Hameedullah, 1978)* a wide interpretation was attributed to right to life also encompassing the right to privacy in its realm. In landmark judgment *KS Puttaswamy vs. Union of India (Sikri et al., 2018)* a three-judge bench of the apex court held that there are clear evidences of the existence of the fundamental right to privacy in article 21 of the constitution.

In *Maneka Gandhi vs. Union of India* the apex court of India had given a wide interpretation attributing right to life encompassing the right to privacy in its realm. In another landmark judgment upholding the right to privacy is *KS Puttaswamy vs. Union of India*. In this right to privacy undeniably attained the status of a fundamental right and hence, it will retain its status amongst the Golden Trinity of Article 14 (Right to Equality), Article 19 (Right to Freedom) and Article 21 (Right to Life and Personnel Liberty).

Patients and their family have the right and desire to have confidentiality and privacy on their medical records. Anything against this would hamper medical ethics thus access to personal and identifiable medical information held at the hands of health professional which are to be kept private and confidential and not normally leaked to the other agencies without due consent. Article 21 connected to the issue of privacy and patient confidentiality during the Covid-19 pandemic. The right is also affirmed in Professional Conduct, Etiquette and Ethics Regulations, 2002 of Indian Medical Council (Medical Council of India, 2002), a Registered Medical Practitioner should not disclose the patient's medical information, except in specific circumstances such as on the order of a court of law, where there is a serious and identified risk to a specific person and/or community and in cases of notifiable diseases, etc. At the time of Covid-19 pandemic, the Ministry of Health and Family Welfare, Government of India had issued guidelines for the compulsory notification of information related to Covid-19 patients by their health care workers to concerned surveillance units. In India, the laws relating to the effectual management of epidemics are detailed in the Epidemic Diseases Act, 1897 ("THE EPIDEMIC DISEASES ACT, 1897," 1897) and National Disaster Management Act, 2005 (National Disaster Management, 2002) which permitted the government to pass any regulations it might deem necessary to prevent the outbreak or spread of any epidemics such as Covid 19.

The Aarogya Setu App was introduced as part of National Disaster Management and Epidemic Disaster Management. The release of the app was a new set of concord for the use and processing of data collected by Aarogya Setu app to prevent and control the spread of Corona Virus. As per the direction of government over 00 million people had registered with the app. In Delhi, National Centre for Disease Control director reportedly instructed that the app be made compulsory to enter to the city from outside. CISF

proposed the app to all the passengers of Delhi Metro. After a month, the Indian government had made the app compulsory for citizens living in identified COVID-19 containment zone and all employees in the public and private sector. Aarogya Setup app uses the phone's Bluetooth and GPS to slipstream the user's movement, making it stronger growing than other such apps. SFLC notes that the responsibility clause in the app's Terms of Service made the Government free from hindrance in the event of "any unsanctioned access to the (user's) information or modification thereof", protect and safeguard the government from any liability even if personal information of users is trickled.

Governments all over the world including India had taken massive steps to control widespread of the virus. The steps are including separation, various state governments have tried different quarantine enforcement measures, e.g., stamping the back of the palm of the individuals, pasting posters outside the homes of suspected cases that state their names, quarantine period and the number of people in the family asked to remain in separation, asking quarantined persons to report every hour through 'selfies', publicizing the names and addresses of patients.

RIGHT TO EDUCATION

The impact that created by the covid-19 pandemic on pedagogy has been immeasurable. UNESCO estimated that the pandemic has badly affected nearly 90% of the world's students. That's 1.54 billion students of 185 countries had to remain home(Meinck et al., 2022). In spite of the challenges governments had taken adequate steps to face in heading this crisis which would badly tamper the future generation. The human rights law clears that students retain their right to education at all times and authorities have the obligation to ensure the right to education, as well as respect for all other human rights.

The State authority is under a responsibility to make adequate attempt to provide educational facilities at all levels and under all occurrences. But with regard to pandemic situation, the state governments have suspended the educational institutions. Majority of the Indian population cannot pay for the basic technology which is currently being utilized to provide for the regular class hours. In truth this deprivation is denying our country's youth from their fundamental right to education(Meinck et al., 2022). Right of Children to Free and Compulsory Education Act, 2009(RTE Act, 2009), acknowledging the state's responsibility to provide free and compulsory education to all children from the age of six to 14 years. The act was a consequence of Article 21A being inserted into the Constitution that made elementary education a fundamental right.

RIGHT TO HEALTH

Though the Constitution of India does not expressly recognize Right to Health as a fundamental right under Part III of the Constitution, through various judicial interpretation, this has been read into the fundamental right to life and personal liberty (Article 21) and is now considered an inseparable part of the Right to Life. Right to Health is a part and parcel of Right to Life and therefore right to health is a fundamental right guaranteed to every citizen of India under Article 21 of the Constitution of India. We owe the recognition of this right to the fact that the Supreme Court of India, through a series of judicial precedents, logically extended its interpretation of the right to life to include right to health. Article 21 of the Constitution of India includes a catena of rights under its ambit. In the year 1989, the concept of the right to health care was added as an integral part to the right to life by the landmark judgment in the case of Pt. Paramanand Katara v. Union of India(M Rangnath, 1989) and Consumer Education Research v. Union of India(K Ramaswamy, 1995) wherein the Supreme Court recognized emergency medical care as a part of Article 21.

RIGHT FOOD

COVID-19 impacts have led to severe and widespread increases in global food insecurity, affecting vulnerable households in almost every country. The impacts continued even at 2023. In India, women's self-help groups, supported under the National Rural Livelihoods Mission co-financed by the World Bank had taken every step to mobilize to meet shortages in masks and sanitizers, run community kitchens and restore fresh food supplies, provide food and support to vulnerable and high-risk families, provide financial services in rural areas, and disseminate COVID-19 advisories among rural communities. These self-help groups, built over a period of 15 years, tap the skills of about 62 million women across India (Drèze & Somanchi, 2021).

Article 21 of the Constitution of India which guarantees a fundamental right to life and personal liberty should be read with Articles 39(a) and 47 to understand the nature of the obligations of the State in order to ensure the effective realization of this right. Article 39(a) of the Constitution, enunciated as one of the Directive Principles, fundamental in the governance of the country, requires the State to direct its policies towards securing that all its citizens have the right to an adequate means of livelihood, while Article 47 spells out the duty of the State to raise the level of nutrition and standard of living of its people as a primary responsibility. The Constitution thus makes the Right to Food a guaranteed Fundamental Right which is enforceable by virtue of the constitutional remedy provided under Article 32 of the Constitution (Drèze & Somanchi, 2021).

RIGHTS OF PRISONERS

The United Nations Human Rights Committee in its Concluding Observations on Moldova has clearly remarked that the failure of a state in taking positive steps towards the prevention of the spread of contagious diseases in prison would amount to a violation of Article 6 (right to life) and Article 9 (right to liberty) of the International Convention on Civil and Political Rights, 1966 (ICCPR). India is one of those nations which have ratified the ICCPR. Thus, there are obligations on the Indian Government when it comes to taking steps towards preventing the spread of COVID-19 in prisons, and any such failure will lead to violation of the above-mentioned obligations under the ICCPR (U N, 2016).

It is a common secret that Indian prisons suffer from over-occupancy. On average, Indian prisons had an occupancy rate of 117% between 2008 -2018, which means that in toto, they held 17% more inmates than their capacity during the period. At the end of the year 2018, the prisons in India held 4,66,804 people against their designated capacity of 3,96,223 inmates. These numbers with respect to people behind bars have, in all probability, increased in the last two years since the Prison Report, 2018, was released. The most concerning fact amidst this is that 69% of the population inhabiting the prisons in our country is that of the under trials. While the occupancy rate for prisons is swamping in some states such as Uttar Pradesh (174%), Delhi (154%), Chhattisgarh (153%), the states in which prisons are not over occupied also present concerning numbers especially when seen in the face of a pandemic – Bihar (93.3%), Punjab (95%) and Rajasthan (92%) for instance (Prison Report, 2018). The Supreme Court of India took suo motu cognizance of the over occupancy of the Indian prisons in times of the COVID-19 outbreak in the country. It directed the State Governments and Union Territories to consider granting paroles of four to six weeks to prisoners booked under lesser offences to decongest prisons (Contagion Of Covid 19 Virus ... vs G. Pragasan on 7 May, 2021).

While isolation wards have cropped up in prisons all over the country, major steps for decongesting of prisons in the form of granting emergency paroles and interim bails to under trials have started in many states of India, such as U.P., M.P., Maharashtra, etc. only to name a few. Also, some of the state governments have put a ban on prison visits from relatives, etc. for some time. Taking a cue from the Kerala Model, the

state and the central governments should also run awareness drives in the prisons to make inmates aware of the disease and preventive measures. The COVID-19 outbreak is just one of the deadly pandemics that we have witnessed, but it will, in all probability, not be the last one. A massive overhaul from the roots of prison system in the country is necessary to protect the prisoners from future crisis.

CONCLUSION

Covid 19 has capsulized many expectations of the world and at the same time opened new innovations especially through I T field. The impacts had heights of changes in jurisprudence and all courts of India especially the courts of records had played a vital role to protect the fundamental rights envisaged by the constitution of India especially in the light of article 21. The interventions of the courts were many in the field of Right to Life, the Hon'ble Supreme Court has outstandingly widened the extent of this right by including in its ambit all which is essential to live a life with human dignity which includes shelter, livelihood, health, education, privacy, healthy environment and many other rights. The effect of Covid-19 has called awareness to the fluidity of the existing fundamental rights thereby bringing forth the prevailing escape clause of the system into light. This pandemic has acted as a lens, compelling the government to read in-between the lines of the Constitution. There is a wide gap between the existing laws as the state government's suffer from an implementation failure.

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