

BASIC NEEDS, BASIC RIGHTS: ON AFTERMATH OF BIHAR AES DEATH

Relevant for: Indian Economy | Topic: Issues Related to Poverty, Inclusion, Employment & Sustainable Development

Three thoughts occur to me in the aftermath of the [horrific tragedy in Muzaffarpur, Bihar](#), where the systemic failure of health care has killed over a hundred children. First, like the constitutional principle of a basic structure, it is time to articulate an equally robust doctrine of basic rights. Second, these basic rights must be viewed primarily as positive, rights not against interference *from* the state (negative rights) but *to* the provision of something by it. Third, just as individuals are punished for legal violations, the government of the day must also be punished for the violation of these basic rights. This punishment need not await the next round of elections but must be meted out immediately, by the law itself. In short, defaulting governments must be held legally accountable. The systematic violation of basic rights must be treated on a par with the breakdown of constitutional machinery.

But what are basic rights? How are they different from other fundamental rights? Basic rights flow from basic needs such as physical security or subsistence. Needs are different from wants. You may want a chocolate every morning but don't *need* it. Heavens won't fall if you don't get it. But basic needs are different: their non-fulfilment can cause great harm, even kill. The failure to get an antibiotic if you have a bacterial infection can hurt you very badly. Heavens *will* fall if you don't get it! Moreover, wants are subjective; you cannot be mistaken that you desire that chocolate. But you may be misguided, even unaware of what you need. You may not be able to tell if you need an antibiotic because your mind can't tell the difference between bacterial and viral infections. This determination is done by a more objective criterion. Needs depend on the way human bodies are constituted. They are a solid necessity; one cannot get on without them. Nor can they be fulfilled by substitutes. For us, nothing can take the place of water, food and air.

India facing critical shortage of healthcare providers: WHO

It is true, of course, that though terribly important, basic needs are not what we live for. They don't make our life worth living. But anything really worth pursuing depends on the satisfaction of basic needs. If we are continuously thirsty, cold, hungry, ill or homeless, we will be incapable of even framing a conception of worthwhile life, let alone pursue it. Imagine the plight of those who queue up for long hours to get a bucket of water or a place to bathe, dress or defecate. People suffer if basic needs are met inadequately or with delay. They are then denied a minimally decent life.

When basic needs are not fully met, we feel vulnerable and helpless. We grieve, cry for help, seek assistance. We complain and demand elementary justice from our community, especially from the state. Elementary justice requires that before anything else, the state does everything at its disposal to satisfy all basic needs of its citizens, particularly of those who cannot fend for themselves. We feel aggrieved when the state abdicates this responsibility.

But what does the language of rights add to the idea of basic needs? First, a right is something that is owed to us; it is not a favour. So, rights help the recognition of anything that satisfies basic needs as an entitlement. Basic rights are claims on the state to provide us with goods and services that satisfy our basic needs. Second, when something is identified as a basic right, it puts the state under a duty to enable its exercise. The state becomes its guarantor. For example, the right to physical security, the first basic right, is socially guaranteed when the state

provides its people a well-trained, professional police force. When society and its government reneges on its commitment to do so, we hold them accountable. It follows that basic rights are a shield for the defenceless against the most damaging threats to their life which include starvation, pestilence and disease. As the philosopher Henry Shue, puts it, it is 'an attempt to give to the powerless a veto over some economic, social and political forces that harm them'.

The Hindu Explains: How litchi toxin is causing the deaths of undernourished children in Muzaffarpur

These rights are basic also because many intrinsically valuable rights can be enjoyed only once these rights are secured. Imagine that we have a right to assemble freely in public but that just as one begins to exercise this right, one is threatened with assault, rape or murder. Most people will simply retreat. Is not a threat to physical security or bodily integrity the commonest weapon wielded by goons, political thugs and oppressive governments?

The second is the right to minimum economic security and subsistence, that includes clean air, uncontaminated water, nutritious food, clothing and shelter. By showing the devastation caused by its absence, the Muzaffarpur tragedy amply proves that the right to primary health care is also an integral part of the right to subsistence. A straightforward link exists between malnutrition and disease. As Dr. T. Jacob John explained in an article in *The Hindu* on June 19, 2019 (OpEd page, "Averting deaths in Muzaffarpur"), encephalopathy, the biochemical disease that results from eating litchi fruit pulp, occurs only in malnourished children. It is common knowledge that malnourishment lowers resistance to disease. A similar link exists between disease, unemployment and poverty.

Credible threats to these rights can be reduced by the government by establishing institutions and practices that assist the vulnerable; for example, by setting up hospitals with adequate number of doctors, nurses, beds, medical equipment, intensive care units, essential drugs and emergency treatments. For this, proper budgetary allocation is required that depends in turn on getting one's political priority and commitment right. When a government fails to provide primary health care to those who can't afford it, it violates their basic rights.

To these two basic rights, I add a third — the right to free public expression of helplessness and frustration, if deprived of other basic rights. The scope of freedom of expression is large and I don't think all of it can be deemed basic. But the relevant part of it is. The right to make one's vulnerability public, be informed about the acts of commission and omission of the government regarding anything that adversely affects the satisfaction of basic needs, to critically examine them and to hold state officials publicly accountable is a basic right on a par with right to physical security and subsistence and inseparably linked to them.

It follows that governments must make arrangements for people to demand that their basic rights be satisfied, to complain when these demands are not met, to report lapses and omissions on the part of governments, point fingers at apathetic government officials, criticise the government for its failures and to do so without fear.

These three basic rights can be summed up in a single phrase, the right to a minimally decent life. This is a threshold right. A society may soar, strive for great collective achievement. There are no limits to the longing for a better life. But the point of having a threshold of minimal decency is that our life must not fall below a certain level of existence. Anything short of a minimally decent life is simply not acceptable. It is this precisely that horrifies us about the callousness of the Bihar government in Muzaffarpur and governments in India more generally. They routinely abdicate responsibility for the suffering they directly or indirectly cause. This is why we must ask why governments are not immediately and severely penalised when they

undermine the exercise of these basic rights.

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