

INEQUALITY OF ANOTHER KIND

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to Fundamental Rights, Directive Principles and Fundamental Duties

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Recently, in *Faheema Shirin v. State of Kerala*, the Kerala High Court declared the right to Internet access as a fundamental right forming a part of the right to privacy and the right to education under Article 21 of the Constitution. While this is a welcome move, it is important to recognise the right to Internet access as an independent right.

Inequality is a concept that underpins most interventions focussed on social justice and development. It resembles the mythological serpent Hydra in Greek mythology — as the state attempts to deal with one aspect of inequality, many new aspects keep coming up.

In recent times, several government and private sector services have become digital. Some of them are only available online. This leads to a new kind of inequality, digital inequality, where social and economic backwardness is exacerbated due to information poverty, lack of infrastructure, and lack of digital literacy. According to the Deloitte report, 'Digital India: Unlocking the Trillion Dollar Opportunity', in mid-2016, digital literacy in India was less than 10%. We are moving to a global economy where knowledge of digital processes will transform the way in which people work, collaborate, consume information, and entertain themselves. This has been acknowledged in the Sustainable Development Goals as well as by the Indian government and has led to the Digital India mission. Offering services online has cost and efficiency benefits for the government and also allows citizens to bypass lower-level government bureaucracy. However, in the absence of Internet access and digital literacy enabling that access, there will be further exclusion of large parts of the population, exacerbating the already existing digital divide.

Moving governance and service delivery online without the requisite progress in Internet access and digital literacy also does not make economic sense. For instance, Common Service Centres, which operate in rural and remote locations, are physical facilities which help in delivering digital government services and informing communities about government initiatives. While the state may be saving resources by moving services online, it also has to spend resources since a large chunk of citizens cannot access these services. The government has acknowledged this and has initiated certain measures in this regard. The Bharat Net programme, aiming to have an optical fibre network in all gram panchayats, is to act as the infrastructural backbone for having Internet access all across the country. However, the project has consistently missed all its deadlines while the costs involved have doubled. Similarly, the National Digital Literacy Mission has barely touched 1.67% of the population and has been struggling for funds. This is particularly worrying because Internet access and digital literacy are dependent on each other, and creation of digital infrastructure must go hand in hand with the creation of digital skills.

Internet access and digital literacy have implications beyond access to government services. Digital literacy allows people to access information and services, collaborate, and navigate socio-cultural networks. In fact, the definition of literacy today must include the ability to access and act upon resources and information found online. While the Kerala High Court judgment acknowledges the role of the right to access Internet in accessing other fundamental rights, it is imperative that the right to Internet access and digital literacy be recognised as a right in itself. In this framework the state would have (i) a positive obligation to create infrastructure for a

minimum standard and quality of Internet access as well as capacity-building measures which would allow all citizens to be digitally literate and (ii) a negative obligation prohibiting it from engaging in conduct that impedes, obstructs or violates such a right. Recognising the right to internet access and digital literacy will also make it easier to demand accountability from the state, as well as encourage the legislature and the executive to take a more proactive role in furthering this right. The courts have always interpreted Article 21 as a broad spectrum of rights considered incidental and/or integral to the right to life.

A right to Internet access would also further provisions given under Articles 38(2) and 39 of the Constitution. It has now become settled judicial practice to read fundamental rights along with directive principles with a view to defining the scope and ambit of the former. We are living in an 'information society'. Unequal access to the Internet creates and reproduces socio-economic exclusions. It is important to recognise the right to Internet access and digital literacy to alleviate this situation, and allow citizens increased access to information, services, and the creation of better livelihood opportunities.

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