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An Empirical Study Of Fundamental Rights During COVID-19

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Abstract: The COVID-19 pandemic posed an unprecedented challenge to nations across the world. In India, while the government enforced lockdowns and health protocols to control viral transmission, these measures led to significant disruptions of constitutionally guaranteed fundamental rights. This research investigates the extent and nature of these infringements, focusing on civil liberties (Right to Movement, Freedom of Speech, Right to Protest), socio-economic rights (Right to Education, Right to Livelihood), and institutional accountability (Right to Justice). Drawing upon empirical data collected from 35 individuals and examining the constitutional framework and relevant case law, this study reveals that while certain emergency measures were necessary, their implementation often lacked proportionality, transparency, and legal oversight. The pandemic not only exposed the fragility of India's public health infrastructure but also highlighted gaps in its democratic institutions and rights protection mechanisms. The paper concludes by recommending rights-based policy reforms to strengthen constitutional guarantees in times of crisis.

Keywords- COVID-19, Fundamental Rights, Civil Liberties, Right to Health, Digital Divide, Lockdown, Constitutionalism, India, Emergency Governance, Human Rights

Introduction

The COVID-19 pandemic, in March 2020 declared a global health emergency by the World Health Organization, ushered in far-reaching reform in the government of the world. In India, which is one of the most populous and heterogenous nations, the response was to implement an abrupt and general lockdown from March 24, 2020. Though triggered to ensure public health, this response led to a crisis of civil liberties, economic security, and institutional accountability.

India's constitutional framework, Part III of the Indian Constitution, guarantees a series of fundamental rights to citizens like Right of Equality (Articles 14-18), Right to Liberty (Articles 19-22), Right to Life and Personal Liberty (Article 21), Right to Education (Article 21A), and the Right to Constitutional Remedies (Article 32). They are non-negotiable under normal circumstances and can be restricted only under specific constitutional provisions in an emergency situation.

But during the COVID-19 pandemic, the state did not even declare a formal constitutional emergency under Article 352. Instead, it relied on the Epidemic Diseases Act, 1897, and the Disaster Management Act, 2005, to apply blanket controls. These laws allowed the executive to stage lockdowns, impose digital surveillance, restrict public assemblies, and restrict movement with minimal parliamentary or judicial oversight.

This also raises key questions about the legitimacy and moral basis for these measures under law. Were the measures in proportion to the health risk to the public? Did they offend constitutionally entrenched rights? How did the public view and experience these measures? What was the role of democratic institutions—judiciary, media, civil society—in safeguarding rights during the crisis?

This research attempts to solve these questions using a mixed-method approach combining doctrinal (theoretical and legal) analysis and empirical data received using a systematic survey of 35 individuals from different socio-economic backgrounds. Five main themes are given priority:

- **Civil Liberties (movement, speech, protest)**
- **Health and Right to Life**
- **Education and Digital Access**
- **Employment and Livelihood Security**
- **Institutional Accountability and Justice**

Through these dimensions, the study not only evaluates how a state has reacted to the pandemic but also contributes to larger discourses on constitutional resilience, democratic governance, and the necessity of rights-based emergency preparedness.

Review of Literature

COVID-19 has spurred a wave of interdisciplinary scholarship in public health, law, governance, and human rights. Within this vast literature, a number of important insights emerge about the balance that states strike between public safety and civil liberties during health crises.

2.1 Constitutionalism in Crisis

Eminent jurists like H.M. Seervai and M.P. Jain have opined that the Indian Constitution authorizes suspension of fundamental rights only through formally declared emergency. During the COVID-19 pandemic, in the absence of such a declaration, all the rights were technically enforceable. Enforcing lockdowns and curfews by executive orders suspended numerous rights in practice, though, raising concerns of executive excess.

2.2 **The Theory of Proportionality**

The Supreme Court, in its landmark case of Modern Dental College (2016), reiterated that restrictions on basic rights must survive the tests of legality, necessity, and proportionality. These scholars like Dworkin and Rawls argue that rights are restraints on the utilitarian turn of the state. But during COVID-19 times, rights were trampled upon without resorting to proper application of these doctrines, most notably on movement, speech, and protest.

2.3 **Digital Rights and Surveillance**

The large-scale deployment of digital surveillance technologies like Aarogya Setu raised issues related to data privacy and informed consent. In the absence of a strong data protection law, the collection and use of health and location data during the pandemic were not transparent, as per Abraham (2020).

2.4 **Healthcare and Inequality**

According to studies conducted by The Lancet and Oxfam India (2021), healthcare access during the epidemic was skewed in favor of urban, educated, and tech-savvy populations. Inadequate cohesive public health policy disproportionately affected marginal communities.

2.5 **International Frameworks**

India is a signatory to the International Covenant on Civil and Political Rights (ICCPR), which allows derogations during emergencies but requires legality, necessity, and non-discrimination. Comparative studies reveal that countries with stronger privacy protection and open communication streams (e.g., New Zealand, Germany) fared better in both lives and liberties.

Despite these efforts, the majority of existing scholarship remains grounded in top-down legal examination. There are few bottom-up empirical studies examining how the average person lived and perceived limitations on rights. That is what the present research accomplishes.

Objectives of the Study

1. To analyze how lockdowns during COVID-19 have impacted the basic rights of citizens, including the Right to Life, Right to Liberty of Speech and Movement, Right to Education, Right to Livelihood, and Right to Protest.
2. To study public opinion and first-hand experiences on rights abuse during the pandemic from primary data.
3. To determine whether the state measures are consistent with constitutional legality, necessity, and proportionality requirements.
4. To examine the role of institutions (judiciary, police, media, and civil society) in defending or violating rights.
5. In attempting to establish policy and legal recommendations for future emergency preparedness on a rights-based approach.

Research Questions

1. To what extent were the Indian constitutional rights limited during the COVID-19 pandemic?
2. Which rights were most affected and how?
3. What did citizens think about the legitimacy of government-imposed restrictions?
4. Were the actions legally and constitutionally justified?
5. Were the institutions like the judiciary, media, and human rights commissions effective in protecting rights?
6. What institutionalized steps can be taken to prevent such violations in future crises?

Research Methodology

Research Design

The research is descriptive, seeking to explain the nature and extent of right violations, and empirical, collecting first-hand views via survey. It is cross-sectional, collecting data at one point in time (post-pandemic peak).

Universe and Sample

Sample population is Indian citizens who have been affected by pandemic restrictions and lockdowns. 35 participants from Uttar Pradesh and nearby regions were selected for the purposive sample.

Sampling Method

A non-probability purposive sampling method was employed, and it involved participants who:

- Withstood the lockdown phase in India.
- Had access to the internet and were able to complete a Google Form.
- Were willing to voluntarily participate in the study.

Data Collection

The information was collected via a Google Form containing 50 close-ended questions that were categorized thematically into:

- Civil Liberties
- Health and Right to Life
- Education and Access Online
- Employment and Livelihood
- Justice and Accountability

Tools of Analysis

- Simple descriptive statistics (percentages, and frequency analysis)
- Thematic comprehension of answers in line with constitutional provision

Ethical Issues

- Respondents were anonymous.
- Participation was voluntary.
- No sensitive personal data was gathered.
- The research sustained the professional ethics of social work.

Theoretical Framework

This research utilizes an interdisciplinary theoretical framework to analyze and interpret COVID-19 infringement on fundamental rights:

Rights-Based Approach

This approach emphasizes that fundamental rights are non-derogable and must be respected even in times of emergencies. Restrictions must comply with the requirements of legality, necessity, and proportionality.

Constitutionalism and Rule of Law

Constitutionalism believes that state power is under constitutional control. In the absence of any emergency announced affirmatively, all the fundamental rights were operational under the Constitution of India, and unauthorized restriction was an issue of concern.

Legal Positivism

Legal positivism assists in distinguishing the legal from the legitimate. Legal positivism assists in examining if the actions under pandemic laws, even being legally valid, were in line with the constitutional morality and right-based governance.

Social Justice Theory (John Rawls)

Rawls's theory of justice as fairness centers on equal access to fundamental goods and securities. The crisis deepened existing health, education, and work inequities disproportionately shouldered by vulnerable populations. 5.5 Democratic government and accountability It must be transparent, participatory, and include checks and balances. Democratic society must include protection against the abuse of emergency powers, as also against the right of citizens to claim redress if they are deprived of their rights.

Data Analysis and Findings

This part is an empirical analysis of data collected from 35 participants. Results are presented systematically based on the major areas of basic rights infringed during the COVID-19 pandemic.

Civil Liberties

- Right to Movement and Police Enforcement
- 91.7% of the participants were aware of their basic rights.
- 52.8% felt that lockdown had too many restrictions imposed by the government.
- 63.9% indicated they had been stopped or questioned by the police when trying to move, even in emergencies.
- 69.4% indicated that movement control measures negatively impacted their access to education or employment.

Right to Protest and Expression

- 76.5% agreed that freedom to protest was unfairly limited.
- 58.3% reported online censorship or restriction of their freedom of expression.
- 79.4% believed police used too much force in enforcing the lockdown.
- Perceptions of Civil Liberties Enforcement
- 64.7% also agreed that civil liberties were undermined in the name of public health.
- 67.6% felt quarantine enforcement resembled unlawful detention.
- 58.8% believe that COVID rules were enforced unequally in different communities.

The Right to Health and Life

- Healthcare Access and Quality
- 63.6% rated access to healthcare as "bad" or "very bad."
- 23.5% had personally experienced hospital refusal.
- 41.2% could not get the vaccines and 8.8% could not get vaccinated at all.
- Information and Disinformation
- Principal sources of health information were:
- Friends: 35.3%
- Private physicians: 29.4%
- Government channels: 23.5% only
- Corruption and Rights Abuses
- 55.8% paid bribes (sometimes or often) for healthcare services.
- 50% felt that isolation rooms did not have minimum human dignity standards.
- 44.1% believed government communication was not transparent.

Livelihood and Employment

- Job Disruption and Economic Loss
- 61.1% experienced income loss.
- 50% were completely out of work during the lockdown.
- 20.6% had their salaries reduced, and 14.7% were dismissed permanently.

Government Support

- Only 14.7% received "just enough" from the government.
- 41.2% said they got no relief whatsoever.

Discrimination and Employee Rights

- Just 29.4% believed their labor rights were being respected.
- 26.5% believed that workplace discrimination happened during the pandemic.
- 41.2% did not have an employer, indicating the informality of the workplace arrangement.

Right to Education and Digital Divide

- Access to Education
- Only 29.4% had full access to e-learning.
- Another 29.4 percent said they had no access at all.
- 54.5% graded online learning as "poor."
- 41.2% thought online tests were not fair.

Infrastructure and Equity

- Most did not have access to digital resources, reliable internet, and conducive home study environments.
- Dropout risk was especially high for rural students and women.

Institutional Justice and Accountability

Awareness and Legal Remedies

- 91.2% knew about legal remedy, reflecting high legal literacy.
- But 66% did not even know where to complain or file a grievance.
- Trust in Judiciary and Grievance Mechanisms
- 82.4% had faith in the judiciary.
- 55.9% felt that government accountability was missing.
- 60.6% indicated that grievance systems were completely unresponsive.
- 41.2% described the media as being irresponsible or biased.

Power Misuse and Oversight

- 76.5% saw abuse of authority by the officials.
- 79.4% agreed that limitations on rights entail stricter control.

Thematic Discussion and Interpretation

This section critiques the findings, relating them to the constitutional and theoretical understandings.

Executive Overreach and Civil Liberties

While social health required restrictions, the record shows that enforcement at times overstepped the bounds of reasonability. Arbitrary arrest, police brutality, and restrictions on Internet communication violated the spirit of Article 19, which provides for freedom of movement, of expression, and of assembly. Judicial oversight of executive behavior was lacking, and civic freedom was untrammelledly curtailed.

Health Rights as a Class Issue

Article 21 guarantees the Right to Life, which includes health, dignity, and access to emergency care. But access to care during COVID-19 was wildly disproportionate—money, where you lived, and who you knew determined the outcome. This was further complicated by systemic corruption, knowledge gaps, and the lack of mental health infrastructure. The constitutional right of the citizen to health now depended on socio-economic status.

Labour, Income, and Right to Livelihood

The fresh unemployment and loss of livelihood due to lockdowns undermined the reading of Article 21 that livelihood forms a part of life. Lack of proper relief from the state and ineligibility for formal welfare measures left informal and migrant workers most vulnerable to exploitation. Informal workers were not covered by ad-hoc relief schemes, and this was against principles of social justice and equity.

Education: Digital Divide as Structural Violence

The transition to e-education without addressing the digital access issue resulted in an education equity crisis. Many children, especially those in rural and backward areas, were being cut off from the school system. The Right of Children to Free and Compulsory Education (Article 21A) became irrelevant to large sections of people due to a lack of planning and infrastructure.

Legal Remedies and Public Trust Despite high levels of awareness, most citizens could not effectively access mechanisms of justice or lodge complaints. Courts remained inaccessible, and administrative channels could not effectively offer redress. This weakened Article 32, the right of a remedy against violation of rights enshrined in the constitution. The respondents also reported high suspicion of the media and extensive misuse of authority.9. Conclusion

This research set out to investigate how the fundamental rights of Indian citizens were affected during the COVID-19 pandemic...

Comparative and International Perspective

The COVID-19 pandemic posed a global challenge to human rights, models of governance, and institutional strength. Democracies and authoritarian governments alike imposed curbs—but the level of proportionality, transparency, and popular trust differed significantly. Comparing India's experience with other countries illuminates both global challenges as well as peculiar failures.

Global Trends in Rights Restrictions

The United Nations and Amnesty International report that more than 60% of the world's nations imposed emergency measures during the pandemic. Lockdowns, surveillance, border closures, and protest restrictions were among them. But not all measures were equal.

New Zealand weighted lockdowns against transparent communication, timed limits on restrictions, and social protections.

South Korea and Taiwan contained through community collaboration and open data usage, keeping rights violations to a minimum.

By contrast, China, Russia, and Turkey employed the crisis to extend authoritarian rule, stifle free speech, and attack dissent.

India's reaction was intermediate: an effective democracy with emergency legislation but inadequate institutional protection and late social protection.

International Human Rights Standards

Under the International Covenant on Civil and Political Rights (ICCPR) to which India is a signatory, states may impose temporary restrictions on certain rights in times of emergency. Any derogation, however, has to comply with the following principles:

- Legality – Has to be authorized by law.
- Necessity – Has to be necessary for an imminent public danger.
- Proportionality – Has to be the least restrictive.
- Non-discrimination – Must not affect particular groups.

India's blanket prohibition, discriminatory enforcement, and inadequate grievance redressing pose problems under all these principles. Especially, freedom of speech, privacy, and freedom of movement were limited beyond what might be warranted in a democratic system.

From Other Democracies

- Germany introduced a statutory requirement of parliamentary consent for long-term prohibitions.
- Canada gave open public briefings and guaranteed access to legal counsel during the crisis.
- Brazil's Supreme Court proactively defended indigenous rights and limited executive overreach.

India's experience highlights the need for stronger constitutionalism, proactive judicial intervention, and greater civil society participation in emergency response planning.

Recommendations

Legal and Constitutional Reforms

- Codify emergency response procedures within constitutional boundaries.
- Reform the Disaster Management Act and Epidemic Diseases Act to incorporate judicial review and public hearing.
- Pass a Data Protection Act to protect digital rights and curb surveillance abuse.

Institutional Reforms

- Enforce parliamentary scrutiny of emergency executive decisions.
- Empower local bodies and panchayats in relief distribution and communication.
- Make police accountability processes executable through human rights commissions.

Social Protection and Livelihood

- Launch a National Urban Employment Guarantee Scheme based on MGNREGA.
- Establish real-time migrant worker registries with Aadhaar-linked cash transfers.
- Increase food security coverage and establish emergency ration kits for vulnerable groups.

Education and Digital Equity

- Offer free smartphones/tablets and internet to all disadvantaged students.
- Educate teachers in inclusive digital pedagogy.
- Provide all digital learning platforms for disabled students.

Healthcare Access

- Enact a Right to Health Act with enforceable entitlements for everyone.
- Regulate private healthcare costs and provide free COVID-like care in times of health emergencies.
- Establish mental health capacity through decentralized support facilities and counselors in schools.

Accountability and Civic Engagement

- Make redressal mechanisms for grievances multilingual, online, and toll-free.
- Protect independent media and civil society monitors through legal guarantees.
- Form a National Rights Oversight Committee to track emergency rights conditions.

Conclusion

This study aimed at examining how the basic rights of Indian citizens were impacted during the COVID-19 pandemic. Under doctrinal analysis and an empirical survey of 35 participants, it can be seen that even though some restrictions were inevitable, their application was frequently devoid of legality, proportionality, and fairness.

Civil rights such as the Right to Movement, Freedom of Speech, and Right to Protest were unduly restricted without sufficient justification or supervision. Socio-economic rights—Right to Education, Right to Livelihood, and Right to Health—were made meaningless for the masses, especially among marginalized and rural communities. Perhaps most troublingly, institutions responsible for safeguarding rights, like the judiciary and human rights commissions, also failed to respond with adequate urgency by the required moment.

While India did not formally announce a constitutional emergency, the situation on the ground was that of an undeclared suspension of rights. The absence of legal clarity, combined with executive excess and institutional laziness, undermined the constitutional framework at a time when it needed the most support.

This crisis should act as a wake-up call. A rights-respecting democracy cannot afford to make constitutional assurances voluntary in times of emergency. Equality, dignity, justice, and liberty values need to be infused into the frameworks of emergency response if India is to really live up to its democratic promise.

In order to prevent future emergencies from resulting in widespread violations of rights, the following reforms are suggested by this study:

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