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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**IMPACT OF COVID-19 ON FUNDAMENTAL RIGHTS**- Adarsh Kashyap<sup>1</sup>**ABSTRACT**

The novel Covid-19's public health challenge has sparked a vast and widespread humanitarian crisis in the region. From a constitutional standpoint, India's response to Covid-19 has impacted or, to some degree, abrogated basic fundamental rights guaranteed by the Indian constitution. These are the bare essentials for living a life with dignity and honesty.<sup>2</sup> However, the weakness of these privileges has been revealed due to an ongoing virus attack. With the widening horizons of the right to life, Covid-19 affects fundamental rights such as health, housing, food, integrity, and a speedy trial. The right to trade, join a union, travel freely, practice religion, and receive an education are all harmed. The Covid-19 pandemic has put these human protections to the test like never before. Uncertainties surrounding the coronavirus pandemic have the most visible and urgent impact on the Right to Health. What distinguishes the current outbreak is that public health is threatened by new coronaviruses and the immediate consequences of quarantine life. One of the unsettling consequences of the lockdown is that people cannot seek medical help in the ordinary course of their lives, jeopardizing their Right to Health. People with diseases like cancer and tuberculosis have to stop going to their sessions, which is a source of worry. Coronavirus has complicated efforts to create a less resistant world to disease and development. In this Research Paper, we will learn how covid-19 affects various Fundamental Rights like the Right to Life, Right to Health, Freedom of Movement, Right to Education, etc.

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<sup>2</sup>UN Office of the High Commissioner for Human Rights, "Emergency Measures and COVID-19: Guidance," 27 April 2020

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## INTRODUCTION

For Indians' intellectual, moral, and spiritual development, fundamental rights are required. These rights are called "fundamental rights" since they are crucial to an individual's life and evolution. These are enshrined in Part III (Articles 12–35) of the Indian Constitution. The breadth and scope of the COVID-19 pandemic are growing to the point where public health threats justify constraints on certain rights, such as those resulting from quarantine or exclusion that restricts freedom of movement.<sup>3</sup> At the same time, paying close attention to fundamental rights such as non-discrimination and fundamental rights values such as openness and respect for human dignity will promote an effective response amid the chaos and disruption that is unavoidable in times of crisis and will minimize the damage that may result from the implementation of comprehensive measures that do not meet the requirements outlined above. This study describes how the fundamental rights of Indian citizens were impacted during the Covid-19 period.

## RIGHT TO HEALTH

Since this is a public health crisis, the first on the list of fundamental rights compromised is article 21 due to health and access to healthcare. By Article-21 of the Indian constitution, everybody has access to preventive medical care and the right to benefit from medical treatment. The human right to the best possible bodily and mental health provides a limiting regularizing orientation to medical service frameworks, more broad social reflexes, and global solidarity. During the COVID- 19 emergency, in any case, the quantity of individuals influenced by Covid has broken all records, and accordingly, medical care frameworks are underpowered. Numerous states have confronted challenges in guaranteeing the accessibility and availability of COVID-19-related health inclusion, prompting deficiencies in primary medical care, including diagnostic tests, ventilators, oxygen, and medical equipment for doctors and other forefront staff like PPE kits.<sup>4</sup> In some states, severity measures, structural adjustment programs, and client charges have delivered fundamental administrations challenging to reach for weaker populations<sup>3</sup>. Execution of the right to health through healthcare frameworks necessitates that treatment depends on medical proof; that testing and care are not retained based on disability,

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<sup>3</sup>Daniyal, S. (2020, March 26). Can the center bypass the States and declare a lockdown. from <https://scroll.in/article/957239/can-the-Union-government-bypass-the-States-and-declare-a-lockdown>.

<sup>4</sup>Kumar, R. (2015). Right to health: Challenges and opportunities. *Indian Journal of Community Medicine*, 40(4), 218–222.

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Age, or failure to pay, states commit the greatest assets to medical services and recovery. As a part of the right to health, the ICESCR gives those administrations ought to make conditions that "would guarantee all medical help and medical attention in case of sickness"<sup>4</sup>. Governments commit to limiting the danger of work-related occurrences and diseases by ensuring workers have health data and sufficient protective clothes and hardware. This entails providing adequate pollution management training and protective gear to health workers and those involved in the COVID-19 reaction.<sup>5</sup> The COVID-19 pandemic squeezes the effectively delicate medical care framework in the Indian state. Lack of foresight, an absence of defensive hardware, and low open mindfulness intensify the struggle. India's open medical care framework isn't outfitted to manage the test of COVID-19. Moreover, it needs both foundation and HR in the health field and, subsequently, is ill-equipped to manage and appropriately react to the healthcare emergency. Nevertheless, India's present state of affairs can be seen as an extreme expression of perennial flaws in the health care infrastructure. These vulnerabilities are not limited to the 'hardware' of the system-such as technology and human capital is also illustrated and addressed<sup>5</sup>. Recommendations: - Governments should take steps to ensure that health care is available to all, available without prejudice, affordable, respectful of medical ethics, culturally acceptable, and of high quality. Governments should ensure that social security services are in place for the families of employees who die due to their jobs or become ill and ensure that such services provide informal jobs. There is an immediate need to recognize these problems and proceed with center changes to resolve them. To stay both valuable and reliable, enhanced, durable, and flexible, health infrastructure needs regular software upgrades, along with ongoing hardware maintenance. The government needs to step up and help the hospital provide basic facilities like the kit to the doctor and ventilator and other equipment not available to the hospital. We need to spread awareness of covid-19 in the rural part of India and educate the people to take covid-19 seriously. They need to provide more doctors and staff to the hospital as there is a significantly smaller number of doctors working. They need to switch from rapid antigen test to RT-PCR test as the former gives the negative report, and one has to do the test all over. The hospital needs to be clean and well sanitized, and they need to increase the number of testing and center as there are few centers in India.<sup>6</sup>

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<sup>5</sup>Mathiharan, K. (2003). The fundamental right to health care. Indian Journal of Medical Ethics, 11(4).

<sup>6</sup>Maitreyi Gupta, Indian Government Fails to Protect Right to Life and Health in Second Wave of COVID-19 Pandemic, from <https://www.icj.org/indian-government-fails-to-protect-right-to-life-and-health-in-second-wave-of-covid-19-pandemic>

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It's worth recalling the seminal case of Consumer Education & Research Centre (CERC) and others v. Union of India and others<sup>7</sup>, in which the Hon'ble Supreme Court ruled that "the compelling need to work in an industry exposed to health hazards due to indigence to provide for himself and his dependents should not be at the expense of the worker's health and vigor." As a result, state governments must provide Personal Protective Equipment and other required safety supplies to the healthcare industry; failing to do so would be a gross violation of the healthcare workers' Fundamental Rights.

### FREEDOM OF MOVEMENT

Governments worldwide have taken stringent steps to resolve the COVID-19 epidemic and have curtailed the freedom of movement of their people. Nations, states, districts, counties, and cities worldwide have closed their borders. Lockdowns and quarantines hampered non-essential outside mobility. People were forced to stay at home rather than work or school. Restaurants, supermarkets, offices, libraries, playgrounds, gyms, and other businesses are also closed. Furthermore, public gatherings such as religious ceremonies, concerts, social and sporting events were postponed in violation of Article 19. Government and health experts have asked that people keep a safe distance from one another when they go out.<sup>8</sup>

Article 19 (1) (D) of the Indian constitution<sup>9</sup> ensures the freedom of movement of all Indian nationals throughout the country. It also guarantees everyone's right to leave and return to any country, even their own. Historically, freedom of movement has been older and more essential. However, in a pandemic, human activities are gradually becoming an issue. For the sake of the public good, the fundamental freedom of movement is restricted in high-risk populations, particularly for the elderly and others. Hard steps have been implemented in India. Their breach will result in severe penalties, as in Guwahati; if the person is found to violate the lockdown rule, they have to function for three days in a quarantine center or hospital. Also, people are fined whoever breaks the law. Movements without authorization and unsanctioned movements from one state to another may be prosecuted. In this context, the present restrictions on movement are problematic for persons who do not have a house. They must rely on self-quarantine, for people with impairments who continue to be reckless, and for people, typically women, whose home is not a haven but a site of uncertainty. Restrictions are especially

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<sup>7</sup>Consumer Education & Research Centre and others v. Union of India, 1995 AIR 922

<sup>8</sup>MYRNA EL FAKHRY TUTTLE, Freedom of Movement during COVID-19, from <https://www.lawnow.org/freedom-of-movement-during-covid-19>

<sup>9</sup>Constitution of India

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challenging for persons whose essential freedom to move had been restricted even before the Covid-19 breakout but who must move to find protection. Migrants exemplify the ambiguities and conflicts surrounding freedom of movement, as well as its strong rejection today. It's not shocking that they seem to become one of the first goals of the most stringent policies in the current atmosphere. India's national lockdown has urgently dislocated its migrant community amid the COVID-19 pandemic. Due to a lack of jobs and funds and the closure of public transportation, hundreds of thousands of migrants were forced to walk hundreds of kilometers back to their home communities, with some dying along the route. After public transportation limitations were lifted, thousands of migrant workers were seen walking or cycling hundreds of kilometers (or even more than a thousand kilometers) back to their native towns, some with their families. Many people were arrested for violating the lockdown after apprehending interstate borders, state woods, and river-crossing boats. Others were killed in car accidents. Of course, freedom of movement includes the freedom not to travel. And frequently, the right to imprison oneself. This fundamental right is denied to everyone, especially the most vulnerable and marginalized. This means that we must stand in solidarity with people who exercise their right to flee, who can no longer remain in cruel camps, and who attempt to escape for safety even during a pandemic.<sup>10</sup>

### RIGHT TO INFORMATION

Ensuring the right to knowledge is a crucial answer to the pandemic of COVID-19. Governments worldwide are making tough decisions on how to react to the outbreak of COVID-19. It also makes the public more conscious of the situation and acts appropriately to protect themselves and their families. It also helps people understand decisions; scientists and other experts track and recommend changes to those decisions; journalists and elected officials evaluate official statements and actions from a more educated perspective. Countries communicate and learn from each other's experiences. In India, where the deadly jaw of a pandemic threatens life and livelihoods, democracy's information law is intended to live up to its responsibilities - to empower people while also ensuring transparency and accountability. The open flow of information is critical in crisis management. And it's a one-of-a-kind situation. However, the Right to Information (RTI) regime struggled to function rather than persevere under these difficult times. People have become passive consumers of media articles,

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<sup>10</sup>Dias Simões, Fernando, COVID-19 and International Freedom of Movement: a Stranded Human Right? (February 8, 2021). Forthcoming in the Yale Journal of Health Policy, Law, and Ethics, The Chinese University of Hong Kong Faculty of Law Research Paper No. 2021

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TV discussions, advertising, and news releases published by numerous departments, which cannot substitute the RTI Act's accountability framework.<sup>11</sup> In such circumstances, the necessity of the hour is to exchange data across the country and react to RTI requests to address concerns, dispel ambiguity, and maintain people's trust in the information system. Following the shutdown on March 25, the Central Information Commission (CIC) was possibly the only 29 national commissions to reopen on April 20. According to a telephone survey performed by the Commonwealth Human Rights Initiative (CHRI), the State Information Commissions (SIC)(SICs) remained inactive during the first and second phases of the lockdown Knowledge on critical topics has eluded the public. The Prime Minister's Office refused the RTI request for details on the PM Cares Fund, saying it was not a public authority. At the same time, the State Bank of India declined to release such information because it was information held by third parties in trust capacity.<sup>12</sup> This violates the simple notion that the public fund's knowledge must be accessible to the public. A few films have gone viral showing police aggression restricting people's movements. People have a right to know the truth about what happened to these cops and what they did to them. Such information can only be made available if the RTI regime is strictly enforced and the relevant websites are kept up to date with Suo Motu disclosures. The befuddled people deserve to be trusted during the Covid-19 panic. They have the right to learn more about the healthcare system in their nation. For example, who is responsible for permitting the government's acquisition of defective test kits, which endangered Covid-19 testing for days, and delivering low-quality Personal Protective Equipment (PPE) to frontline health care workers who have received the infection? Those who are locked out require access to the outside world. Press releases from each state provided information on the transit of food grain, and other necessities. However, consumers must examine distribution statistics at the district and appropriate pricing store levels. They want to know if there was any diversion of food grains, as claimed. At this point, the SICs should have done an excellent job hearing those priority issues. The current health hazard is rapidly growing into a massive socioeconomic concern, and government public relations and information exchange must become more relevant<sup>11</sup>. Ministers and government spokespersons cannot continue to be the only sources of information. The RTI regime must provide an institutional response. RTI questions climbed by 83.83 percent from 8.86.681 in 2012-13 to 16.30.048 in 2018-19, reflecting our people's

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<sup>11</sup>SUSHOVAN SIRCAR- COVID-19: What Happens to RTIs During the Lockdown from

<https://www.thequint.com/news/india/covid-19-coronavirus-what-happens-to-rti-during-lockdown#read-more>

<sup>12</sup>A fund without a care for the RTI, <https://www.thehindu.com/opinion/lead/a-fund-without-a-care-for-the-rti/article36743787.ece>

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growing trust in the RTI system. However, during such a crisis, the regime is being tested. As a result, political leaders and information commissioners must concentrate intensely on improving the RTI apparatus in the interests of the people and the nation as a whole.<sup>13</sup>

### RIGHT TO EDUCATION

Right to education does not come to one's mind when we think about the chaos caused by COVID-19. The Constitution Act, 2002 inserted Article 21-A Right to free and compulsory education, which provides free and compulsory education to children.<sup>14</sup>

Between the ages 6-14 in such a manner as the State may, by law, determine.<sup>13</sup> It means that a child is not liable to pay any charges, offenses, or expenses that may prevent them from studying. COVID-19 has changed how education institutes usually work, and not everyone can adjust to these new measurements and methods. It has interrupted people's daily lives throughout the world. Most educational institutions have turned to virtual platforms to hold lessons and resume the academic year. Even though teachers and students face difficulties adjusting to the new system, the main issue of this new virtual world is that not everyone can afford the facilities to attend these online lectures. To hear these lectures, one must have an electricity connection, a laptop, or a mobile with a stable WIFI connection. And as the virtual world has taken over, the government has not taken any steps to provide underprivileged students with the necessary facilities, violating the right to education.<sup>14</sup> Everyone should be treated the same, but the disadvantaged kids and their issues are not considered. They cannot afford the facilities, but they can't even operate laptops and other gadgets.<sup>15</sup>

Also, many students cannot understand through online classes as proper class participation is not possible. They require one-to-one attention. Also, there is a strong correlation between poverty and dropout rates as students are not able to afford education, they decide to drop out to save the money for the needs of the family.

It is said that virtual classes are comparatively cheaper, but that's not true. Moving to online courses does not reduce the cost equation as schools remain closed, so provision has been made by the RTE Act to cover for the loss of education. Also, no student studying in classes I to VIII

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<sup>13</sup>Yashovardhan Azad, The RTI regime failed India during Covid-19 from <https://www.hindustantimes.com/analysis/the-rti-regime-failed-india-during-covid-19/story-B1zj5939aPdl1Z5MwA1AoK.html>

<sup>14</sup>Constitution of India

<sup>15</sup>Borkowski, A., Ortiz-Correa, J. S., Bundy, D. A. P., Burbano, C., Hayashi, C., Lloyd-Evans, E., Neitzel, J., & Reuge, N. (2021). COVID-19: Missing more than a classroom. The impact of school closures on children's nutrition.

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will be held back or expelled as per Section 16 of the Act. Because of this, many important concepts which form a base for other essential subjects would remain weak. The mid-day meal program, a savior for many poor children, has been suspended as schools are closed due to COVID-19.

Another problem faced by many students is that they are made to give competitive exams like CLAT, NEET, JEE, etc., but that's not the real issue; the real problem is only a few centers are made available due to the pandemic, and they are situated very far away. And usually, students would use public transportation to reach these centers, such as buses, trains, auto, etc. But due to the pandemic, these services have been suspended as per the government instruction. Most of the students are fortunate enough to have their vehicles, which will help them to reach

The designated centers. But not everyone is this fortunate. Students below the poverty line were always dependent on the government and their services to reach these centers, but now, many bright minds will not give these exams because they cannot reach the respective centers. Many brilliant minds won't be able to fulfill their potential, won't be able to make their lives better as well as their parents, and will be stuck with this pathetic life of theirs just because they couldn't give exams.

So due to the pandemic, students have faced many difficulties in their education, and the government has not taken any necessary steps to give equal educational opportunities to underprivileged students. Students are the future of our country, and we will be dependent on them to save us from another future pandemic. But because of such circumstances, not every individual is getting equal facilities and opportunities to prosper and thus; we don't even know how many bright minds will remain undiscovered.

### RIGHT TO LIFE

Given the situation in Covid-19, the Ministry of Home Affairs directed state governments and authorities to ensure that all employers pay their employees on time and that no salaries are withdrawn under any circumstances. Wages must also be paid when the establishment/industry/shops are closed. In *Peoples Union for Democratic Rights v. Union of India*, the Hon'ble Supreme Court decided that failing to pay employees minimum wages violates their right to basic human dignity and violates Article 21 of the Constitution. As previously stated, executing government policies is difficult because many companies in the informal sector disregard government mandate. Wage theft occurs in a few sectors of the

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economy, ranging from withholding salary to firing a percentage of workers to further postponing wages.<sup>16</sup>

### CONCLUSION

COVID-19 has affected us in many ways which we cannot imagine. It has ruined several lives, not only using sickness and death but also in many other ways. It has ruined children's education; many laborers are unemployed now; not only are they unemployed, but they were not able to reach their respective homes because of a ban on public transportation and no other facility being given by the government. There are not enough beds for the patients, affecting their Right to Health. The people who are the most affected are the lower- and middle-class people, and there are not enough tests conducted in India and not enough test centers in the rural part of India. The rich and people who have resources can get tested, but poor people can't travel or even pay more for testing and treatment in private hospitals. The unemployment rate is increasing. The government has not kept complete transparency regarding the country's situation with the public. Some of the government's decisions regarding the pandemic have been very controversial. People, for example, are unaware of the quality of PPE kits. The Prime Minister's Office refused the RTI request for details on the PM Cares Fund, saying it was not a public authority. At the same time, the State Bank of India declined to release such information because it was information held by third parties in trust capacity. Many fundamental rights are being violated. Certain aspects of lockdown have affected the lives of many people. The pandemic has helped find the gap between the laws and reality as the State government suffers from implementation failure. The violation of fundamental rights has questioned the constitutional fabric. Now there is a dire need for the judiciary and State to fix the implementation faults. In this research paper, we have analyzed how covid-19 has affected people's fundamental rights. According to the constitution, our fundamental rights cannot be taken away by the government. But this time situation was different. When the lockdown was implemented in India from 25<sup>th</sup> March 2020, people could not go to their house, village, town, etc.<sup>17</sup> For example, students got stuck in Kota. They had to face many issues like they couldn't go to their respective homes and encountered problems with food, messes were closed, and they couldn't go outside to have food. The migrant worker also faced difficulties when the lockdown was suddenly annoyed, and they were stuck where they were working. They lived in rented

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<sup>16</sup>MoHFW (Ministry of Health and Family Welfare, Government of India) 2020. from <https://www.mohfw.gov.in/>

<sup>17</sup>Owaisi, A. (2020, April 27). Unconstitutional nationwide lockdown. *Telangana Today*. from <https://telanganatoday.com/unconstitutional-nationwide-lockdown>.

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houses. They couldn't pay the rent as money was running out as there was no work. They can't go home because of the lockdown. As no vehicle was running and no transport was there, they were forced to walk to their respective house or village as they couldn't pay the rent and did not have enough food. In the above two situations, we see how freedom of movement and the right to life was violated during the covid time. Hence during the covid-19 many fundamental rights like freedom of movement, right to health under the right to life, right to education, and due to information, etc. was impacted heavily.

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