Enforcing Basic Rights

What is the issue?

- The outbreak of acute encephalitis syndrome (AES) in Bihar led to close to 350 cases and around 100 deaths. Click here to know more.
- The incident highlights the systemic failure of health care in the country and more importantly, calls for a discourse on the basic rights of citizens.

What are basic needs?

- Needs are different from wants; while the former is an unavoidable necessity, the latter is a wish.
- The determination of needs is done by a more objective criterion unlike wants which are driven by subjective criteria.
- Baisc needs are that without which people would be denied of a minimally decent life.
- Non-fulfillment of basic needs can cause great harm, even kill people. E.g. lack of adequate supply of water, food and air

What are basic rights?

- A right is something that is owed to people; it is not a favour offered.
- Basic rights flow from basic needs such as physical security or subsistence.
- In simple terms, basic rights are claims on the state to provide citizens with goods and services that satisfy their basic needs.
- Significantly, basic rights are a shield for the defenceless against the most damaging threats to their life.

- The basic rights that could possibly be prioritised as among the firsts are:
    1. right to physical security - socially guaranteed when the state provides a professional police force
    2. right to minimum economic security and subsistence - includes clean air, uncontaminated water, nutritious food, clothing and shelter
    3. right to primary health care
    4. right to free public expression of helplessness and frustration, if deprived of basic rights

What role does the State have?

- When something is identified as a basic right, it puts the state under a duty to enable its exercise i.e. the State becomes its guarantor.
- Elementary justice requires that before anything else, the state does everything at its disposal to satisfy all basic needs of its citizens.
- This particularly applies to those who cannot fend for themselves.
- Credible threats to the basic rights should be reduced by the government by establishing institutions and practices to assist the vulnerable.
- This, in turn, requires proper budgetary allocation.
- These demands, therefore, incorporate the rights -
    i. to make one's vulnerability public
    ii. to be informed about the acts of commission and omission of the government regarding anything that adversely affects the satisfaction of basic needs
    iii. to critically examine and hold state officials publicly accountable

What is the way forward?

- The basic rights must be viewed primarily as positive.
- In other words, basic rights should be rights not against interference from the State (negative rights) but to the provision of something by the State.
- Just as individuals are punished for legal violations, the government must be held legally accountable for the violation of these basic rights.
- The systematic violation of basic rights must be treated on a par with the breakdown of constitutional machinery.
- To sum up, like the constitutional principle of a basic structure, it is time to articulate an equally robust doctrine of basic rights.

Source: The Hindu

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