

Sub theme 8 Citizens/People, Laws and Right to Life

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The Indian Constitution has enshrined the Right to Life as a fundamental right according to Article 21. The past 70 years or so have seen a progressive expansion in the understanding and interpretation of the Right to Life and what it entails. Right from reading in personal liberty as an intrinsic part of the right to life; to invoking it as fundamental in a number of recent judgements to do with the right to conscience and life choices, entry of women into religious shrines, laws against sexual harassment of women at the workplace, issue of gender self-determination and embodiment, right to live a life with dignity which is free from exploitation ; as inclusive of right to livelihood, right to shelter, right to medical care and medical confidentiality, right to legal aid, right to education, right to privacy and even in the judgement striking down Article 377 as unconstitutional, right to life has been interpreted progressively to encompass a wide spectrum. What emerges from a reading of the cases and judgements invoking Article 21 is that Right to Life can be read as central to the promise of fundamental rights enshrined in the Constitution. However, it must be constantly remembered that law is a contested terrain and this expansion and reinterpretation of rights has come as a result of struggles by social movements in general and women's movements in particular. However, these hard-won rights are being eroded on many fronts today. There are targeted attacks on assertions and claims of these rights, whether in the form of killings in the name of 'honour', violence against women in Sabarimala trying to assert their constitutional rights, through the introduction of the Transgender Bill which minimizes the right to self-determination, etc. Moreover, the Muslim Women (Protection of Rights on Marriage) Bill which criminalises triple talaq, the Independent Thought judgement and other such examples reflect the contested realm of rights and compel further engagement and discussion even within the spaces of the women's movement, as well as Women's Studies.

The right to life is under severe attack on other fronts with systematic efforts to control what we can eat/wear/speak/choose. Phenomenon like atrocities on Dalits and mob-lynchings, many of them tied to the politics of cow protection and resurgence of a politics of hate and violence have

posed serious challenge for the enjoyment of right to life for significant proportion of the population. Large parts of the population are denied even the basic rights to move about freely through the enactment of 'state of exception' laws. Many find their citizenship and subsequently the enjoyment of the right to life threatened through measures like citizenship registries. Though the Supreme Court has pronounced that a biometric system like Aadhar cannot be made compulsory for access to social welfare schemes, many continue to be disenfranchised from access to food security and entitlements like health care. The entrenchment of neoliberal policies accompanied by a fragile economy and corporatisation is putting the right to livelihood and work under duress, not only for the workers in the informal economy, but increasingly for the small percentage of workers in the formal economy as well. The politics of accumulation by dispossession has meant that large groups of people, whether in Odisha, Chattisgarh or the Narmada valley are being driven out of their homes and livelihoods for the pursuit of a mirage called development. All this has meant that there is a severe deterioration in possibilities of well-being and of living a dignified and exploitation-free life not only for women but for many other marginalized and subordinated groups as well. At the core of this is a need to unravel the larger understanding of law, its 'neutrality' or 'rule of law' when laws/legal instruments themselves can be used by the State for overstepping into the civil, political and other rights of people.

The patriarchal nature of the judiciary/legal institution as witnessed in various recent judgments wherein the right to consent and autonomy of women have been under-recognised and diluted, or the weakened response to undertaking of due process in sexual harassment case within the Supreme Court raises fundamental questions of gender bias amongst the representatives of these institutions and poses the need for continued struggles and engagements on this front by the women's movement.

Further, given the centrality of the role of the State in relationship to laws, and upholding of rights, it is important to have critical reflections on the same. With the budget cuts in social sectors-education, health, social security, work entitlements etc; the State is seen to be continuously withdrawing from its role of welfare towards people while increasingly adopting the role of surveillance and policing. Such a scenario inevitably leads to systemic attacks on the rights of the people-right to food, health, work, education - all of which are essential to the meanings of right to life.

Similarly, the constitutional promise through the Directive Principles of State Policy (as per the part IV of the Indian constitution) also holds that the government policies be geared towards the social justice and welfare of people. On the backdrop of constitutional rights, it is essential to look into government policies and efforts in its governance so as to determine if they are promoting the rights of people or not. Unfortunately, there are many government policies which point towards the absence of a rights based framework in their approach, with some of them being coercive, and discriminatory in nature. Reproductive health and rights for example is one such area where concerns have been raised consistently- policies such as ‘the two child norm’ directly violate the reproductive autonomy of women and couples and interfere with their constitutional rights overall. Similarly, women particularly from marginalised sections have been the targets of ‘population control’ goals set by the State; access to contraception/family planning methods has been largely instrumentalised towards achieving this goal rather than recognising the reproductive rights of women which is essentially linked to their lives and lived experiences in the society.

In such a context, there is an urgent need to unpack what the right to life means in the present moment, which lives are being talked about when it is invoked, which lives get left out, what does this right encompass, what are the possibilities of its expansion and deepening and what are the challenges to reconceptualize, safeguard and operationalize the right to life in the context of the present State and society. It is important to understand the intersections and conjectures that cause this right to be fulfilled/ violated.

This sub-theme seeks to approach the question of the citizens/people, law and right to life by conceptualizing it as going beyond the letter of the law to enveloping possibilities of right to live with dignity for all. Thus, the right to life should encompass ideas of equality and liberty and how they are to be practiced and ensured for all citizens of the country, without demanding for homogeneity or similarity as pre-conditions for the same. The need to think about citizenship in a substantive way and open it out for scrutiny becomes even more urgent in the context of debates around the NRC etc. where depriving people of citizenship renders them "invisible", how then do we think about citizenship in a context of justice and not within the framework of drawing borders and boundaries to exclude.

The urgent question is how do we operationalize the right to life in a way that not only respects diversities and pluralities but helps reshape our society by bringing the voices and the concerns of the marginalized to the centre. Further how can we look at forging/revisiting solidarities amongst varied social/people's movements to find critical concerns and issues being faced by different marginalized voices. In a context, where the right to life is also being invoked in an instrumentalist manner, to erode rights of women and other groups, how do we reconceptualize and strengthen its linkages with liberty, equality and most importantly, with ideas of social justice?

This sub-theme invites papers which look at constitutional guarantee of right to life by encompassing all the ways in which it has been theorized and operationalized in judgements and struggles and ways of taking it forward. Papers could explore the expansion of the rights in recent judicial decisions, the way the right is being compromised in the translation of those decisions into legislative and administrative actions, the meaning of right to life in the present conditions, challenges with instrumentalization of the rights and distancing it from the aspect of social justice, and attempts to revitalize it in the larger context of 'nationalization', 'corporatization', and 'criminalization' of human lives. They could broadly address the following sub-themes:

1. Reframing the contours of the right to life: Beyond the law
 2. Whither social justice? Introspection on the role of law
 3. Problematizing citizenship and the right to life
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