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## **AIDS AND NATIONAL LAW: HUMAN RIGHTS PERSPECTIVE**

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**Mr. Deepak Manohar Bhosale**

Senior Lecturer,  
Department of Social Work,  
SIBER College, Kolhapur.

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### **INTRODUCTION:**

Human rights are one of the most useful things for a citizen. Human rights programme envisaged as Helsinki betow's the right to be free from governmental violations of the integrity of the person, the right to the fulfillment of such vital needs as for shelter, healthcare and education and right to enjoy civil and political liberties.

A person who does not believe in human rights is neither a socialist nor a capitalist, he is a devil-beware of him whether he is a bureaucrat, a priest, a sadhu, a mullah, politician, leftist aor rightist oa a trade union leader. Such people are the Barrie of this nation and its people.

AIDS and law are very much routed in the society. There is in fact the AIDS affect the human resourcrs - the sole controlling force of any economy. It mostly affects people of the most productive age say in between 15 to 45. All estimates show that 70% of the Aids infected in the country are in this age group. Therefore it has it toll on the general economy. Many patients can't afford the costly substance medicines. So the question of price management arises.

Lord Scarman calls law "the body of rules and guidelines within which society requires its judges to administer justice.

Unlike the international law, the national laws are fully enforceable. The provisions of the international law actually add to strength to the provisions of the national laws.

For the benefits of AIDS victims, one needs to know the specific provisions which will give more teeth to the domestic campaign.

### **THE CONSTITUTIONAL PROVISIONS AND AIDS:**

Under the Indian constitution, public health and sanitation, hospitals and dispensaries fall in the state list. Population control and family planning, medical, education, adulteration of food stuffs and goods, drugs and poisons, medical profession, vital statistics including registration of the birth and deaths, mental deficiency are well concern of the Ministry of health and family welfare.

The provision of the Constitutions of India it is most useful in the AIDS situation are found in the Part-III and Part – IV dealing with fundamental rights and directive principles respectively.

If a particular Govt. Hospital or dispensary prohibits the entry of AIDS patients or singles out the AIDS victims, without giving them treatment for no scientific reason, the action of action of medical authorities can be challenged under article 32 & 226 of the Indian Constitution.

However, opening up separate treatment centres and AIDS cells for the benefits of the AIDS victims is not a violation of article 14 as it is a reasonable classification (Right to Equality).

**Article 19** – Freedom granted to citizen of India. Right to freedom has in its wake, protection of rights regarding freedom of speech & expression, to assemble peacefully and without arms, to form association, to move freely throughout the Territory of India, to reside and settle in any part of the territory of India & practice any profession, business or trade. Many other unnamed rights are

**Article 21**- protection of Life and personal liberty. So regarding this article blood banks running without Govt. norms, care free shaving parlors, should be banned, pre-test facilities in blood banks can be enforced likewise those doctors who are not prepared to treat an AIDS patient can also be made to treat and AIDS patient. In this sense any act endangering human life, they all fall under the sweep of Article 21.

#### **THE INDIAN PENAL CODE AND AIDS:**

The use of Indian Penal Code (IPC) in fighting AIDS is limited as one has to fight first the police corruption, lethargy and ignorance and then fight AIDS with the help of finer police. We want an alert, useful unbiased police while dealing the AIDS victims.

#### **CRIMINAL PROCEDURE CODE AND AIDS:**

The Criminal Procedure Code (Cr.P.C.) has given the procedure to be adopted in conducting criminal cases from First information Report (FIR) to conviction. The part relevant to fighting AIDS comes under public nuisance sections 133 to 143.

The judiciary can be petitioned for the creations of special provision to control the AIDS epidemic likewise the Govt. can be ordered for better AIDS management and other social purpose.

#### **THE CONSUMER PROTECTION ACT 1986:**

In the case of the blood banks which charge for the service. Whether Private or Government can be tackled with recourse to the Consumer Protection Act. If they are operating without licensing, they can be ordered to stop the business. If contaminated blood is supplied the forum can order the refund of money charged along with an award of compensation. Misleading Medical or

*Mr. Deepak Manohar Bhosale.*

paramedical publications and teachings etc., are all actionable under the act. As also the unhygienic conditions in hospitals charging a fee are all netted by the jurisdiction of this act.

### **IMPEDIMENTS IN AIDS COMBATINGS:**

Inert health Ministers, at the Centers and State levels, negligent local authorities, negligent Govt. hospitals, and health workers, unresponsive media, overburdened course, improper economic planning, weaker NGO's etc.,

There are all impediments in the path of AIDS, Diagnosis, prevention, treatment, counseling and rehabilitation all have to be tackled on a war footing. All of them are equally important or right the AIDS menace. There is no single remedy for any social malady. The approach should be multifaceted.

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