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HORIZONTAL APPLICATION OF FUNDAMENTAL RIGHTS IN INDIA: WITH SPECIAL REFERENCE TO RESTRICTIVE COVENANTS

Authored By - Chitrarekha Bharadwaj

Abstract

Strong private actors began to seriously threaten citizens' fundamental rights following the globalization of the economy. The issue of whether fundamental rights can be enforced against private enterprises now arises. The solution is still a mystery. Chaos has resulted from this lack of clarity. On the one hand, the citizens' fundamental rights are being infringed upon, and on the other, socialism itself is under attack. These two ideas are incorporated into the Constitution's framework.

It is now time to accord these Fundamental Rights a horizontal applicability so that they can be enforced against both public and private institutions. This paper discussed in detail the abovementioned issues as well as analyzes the initiative taken by the judiciary towards giving these fundamental rights a horizontal effect against the private actors.

1. INTRODUCTION

"The aim of all political association is the preservation of the natural and imprescriptibly rights of man".¹

The fundamental rights in the Indian Constitution were inserted by the framers with the intention to safeguard certain basic human rights from the ephemeral of political majorities². Fundamental rights are the most important human rights, and they must always be upheld. They are referred to as the "Conscience of the Constitution" along with the Directive Principles of State Policy.

Further, in the words of Bhagwati J., *"Fundamental Rights represent the basic values*

¹ Declaration of the Rights of Man, 1789

² *A.K Gopalan v. State of Madras*, AIR 1950 SC 27

*cherished by the people of this country since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent and they weave a pattern of guarantees on the basic structure of human rights and impose negative obligations on the State not to encroach on individual liberty in its various dimensions”.*³

Further, in the case of **Moti Lal v. State of Uttar Pradesh**⁴, the Court elucidated that Fundamental Rights aim to demonstrate to all citizens and individuals the fact that the supreme law of the land has eliminated prejudices and established complete equality among all segments of the population in regards to those rights that are necessary for a person’s material and moral development.

Thus, it is crystal clear that the Fundamental Rights are significant for every individual to procure one’s complete physical, mental, intellectual, ethical and spiritual status and the responsibility to safeguard these rests with the State.

However, the circumstances affecting individual rights substantially changed following the globalization, privatization, and liberalization of India’s economy in 1991. Now, the strong private sectors pose a serious threat to an individual’s rights⁵. Globalization has curtailed public spaces, violated human rights, and reduced citizens to commodities in many developing nations. This emphasized the need for a check on the authority of private businesses, similar to the one available against the state. The process of achieving this is known as the “Horizontal Application of Fundamental Rights”. Fundamental Rights are expressly applicable against the state, as already discussed above.

The Indian Constitution has given the State a lot of authority and jurisdiction as well as endowed with so many authorities that, if it so desires, it can greatly squander them. The constitution makers recognized the need to weigh the state with duties in to prevent it from turning authoritarian as a solution to deal with these difficulties. The very first step in this direction was to making State responsible in upholding the fundamental rights of the citizens of the country.

Initially, Vertical applications of rights work well, but when private actors were increases in

³ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

⁴ *Moti Lal v. State of Uttar Pradesh*, AIR 1951 All 257

⁵ V.N. Shukla, *Constitution of India*, (first published in 1982 10th Edn. 2003) 20

tandem and the state's negligence in this matter, this facility becomes insufficient. These kinds of scenarios have been addressed by the constitutional court using the horizontal application of rights, which enables a person to defend one's rights against other private entities.

However, there are still several Fundamental Rights that are directly applicable to private individuals or organizations, such as Articles 15(2), 15(5), 17, 23 and 24. Aside from these, several clauses, like Article 19 that can be implemented through judicial activism, are ambiguous about their enforceability.

Nevertheless, in the initial stages of the judicial system, it doesn't appear that the judiciary was in favor to apply such Fundamental Rights against private entities. For instance, in **A.K. Gopalan v. State of Madras**⁶, the Supreme Court said that it is a fallacy to believe that constitutional protections are intended to protect individuals, ruling that it is impossible to enforce fundamental rights against private individuals.

The idea of vertical effect conflicts with the idea of horizontal application. There seem to be two possible applications for rights, known as horizontal and vertical application respectively. Horizontal rights apply to private actors, whereas vertical rights can only be invoked against State. The idea of horizontal application first became popular in Ireland. The court there developed a mechanism that enables it to file a lawsuit under the "sui generis principle" against a private person, designate that wrong as a constitutional tort, and start enforcing the law against that person.⁷

2. JUDICIAL INTERPRETATION

The classical approach holds that constitutional rights are enforceable "vertically" by the individual against the State, regulating the interaction between the person and the State, serving as a check on Power of the state. The conversations or transactions between private parties are not designed to be covered by them.

However, there has been comprehensive understanding among Constitutional Courts over last 30 years that a strict vertical application of Fundamental Rights is not adequate. Therefore, constitutional courts have created numerous methods for "horizontally" applying rights, i.e.,

⁶ Supra Note 2

⁷ Shashwat Bhutani, 'EXIGENCY: THE HORIZONTAL APPLICATION OF FUNDAMENTAL RIGHTS' SAO 13, <<https://supremoamicus.org/wp-content/uploads/2019/08/A33.v13.pdf>> accessed on 30th October 2022

applying rights in situations when private actors are involved. Further, the Supreme Court of India took the opportunity in some instances to interact with the horizontal application of Fundamental Rights and created certain types of remedies by taking the inspiration from its counterparts like Canada, Germany, South Africa and United States of America. However, the answers in such situations were little vague and remained unclear.

Any horizontality standardization must handle two problems. The very first is that who is the authority against who remedy is being sought? However, the unrivalled purpose of horizontal application of fundamental rights is to make the private entities liable for the violations and this can be done by two ways –

1. By making the private body directly a respondent, or
2. By indirectly attempting to get hold of private action by way of litigation against the State.⁸

Another problem is that what is the remedy being sought? While the second investigation follows the first in a similar fashion, they are not the same. The contested action may be a private one or it may be a state action that permits the particular private actions in question.

In the light of this, take into account the following categorization as an introduction to the conversation, with the treatments sorted on a rough, intuitive spectrum of vertical —> horizontal:

- 1. Integration under Article 12** - The two tests for assessing the scope of “other authorities” under Article 12 have traditionally been used inconsistently in Indian cases: a control test (also known as a structural test) that examines particularly the degree regarding the control of government on the private entity, or a functional test, which inquires as to whether the private body is carrying out a function that is properly referred to as a State function. This situation was discussed in **Pradeep Kumar Biswas v. Indian Institute of Chemical Engineering**⁹ where the Supreme Court used “control test” and held that Article 12 is applied only to such organizations which are “financially, functionally and administratively controlled by or are under the control of the Government”. Here, the private act of private entity was challenged.

⁸ Ashish Chugh, ‘FUNDAMENTAL RIGHTS—VERTICAL OR HORIZONTAL?’ EBC, <https://www.ebc-india.com/lawyer/articles/2005_7_9.htm#Note1> accessed on 28th October 2022

⁹ **Pradeep Kumar Biswas v. Indian Institute of Chemical Engineering**,

2. **Positive Rights enforceable against State** – Traditionally, fundamental rights have been thought of as being of a negative nature, i.e., they place restrictions on what the State can do however they do not bind it to positive obligations to act in a certain way. Both judges and legal professors have harshly criticized this interpretation. The case of **De Shaney v. Winnebago**¹⁰, in which the Court ruled that there was no cause of action for a Government agency's irresponsible omission to stop child abuse by a custodial parent, serves as an example of how the United States adheres to the traditional negative approach. However, such approach has not been acknowledged globally.

Nevertheless, even after following the traditional concept of non-interference, there is State obligation to defend citizens from violations of fundamental rights, regardless of who might be possible and such inability to reasonably stop private entities amounts to waiver of that duty.

This notion was adopted by the Supreme Court of India in the case of **Vishakha v. State of Rajasthan**¹¹, where it determined that the State had violated the fundamental rights of the petitioner under Articles 14, 19, and 21 by failing to enact sexual harassment legislation to govern both public and private workplaces. The Vishakha Recommendations serves as a temporary stand-in while the legislature drafted a sexual harassment statute. In **Medha Kotwal Lele v. Union of India**¹², which was decided fifteen years later, the Supreme Court noted that many states in India had still not implemented the Guidelines provided in the Vishakha case and ordered them to comply within two months. It is vital to highlight that discrimination on both a public and private level was at issue in Vishakha and Medha Kotwal Lele, however the respondent in both cases was the State. In other words, the Court determined that people have rights under Articles 14, 19, and 21 against the State, and as a result, the State is required to govern private entities in a way that prevents any violations of these rights.

Further, the Court many a times broadened the interpretation of Article 21 to correct errors or issues with its actions and the examples of it are right to livelihood

¹⁰ *De Shaney v. Winnebago*, 489 U.S. 189 (1989)

¹¹ *Vishakha v. State of Rajasthan*, (1997) 6 SCC 241

¹² *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 31

developed in *Olga Tellis* case¹³ and right against solitary confinement in response to acts of prison wardens.¹⁴

Despite being a landmark decision, *Vishakha*, the Court has not yet made clear the paradigm of positive responsibilities it is applying. For example, the General Comments to the ICCPR make explicit what the related obligations are in situations involving the rights to food or to education. The Court would, hopefully, fill in this gap by creating a robust and democratically and democratically supported account of positive responsibilities.

- 3. Direct Horizontality** - Direct horizontality describes a scenario in which a private act of the private party is contested using the Constitution as a benchmark. Three explicit clauses in the Indian Constitution prohibit infringement of horizontal rights. According to Article 15(2), no citizen may be denied access to businesses, public dining establishments, lodging establishments, public entertainment venues, or public resorts intended for use by the general public on the ground of their religion, race, caste, sex, place of birth, or any combination of these. Untouchability is against the law according to Article 17 as Dalits are still heavily exploited and discriminated against in many places. There are some instances like while visiting the homes of upper caste people, the people belonging to lower caste are not permitted to wear slippers, consume food from different utensils and not allowed to use the well that is used by the upper caste people. In this situation, holding the private person accountable is necessary to ensure that the Constitution fulfils its intended function while also making the Fundamental Right practically enforceable. Article 23 forbids both bonded labor and human trafficking.

Part III of the Constitution also contains another essential provision, Article 21, which protects a person's right to life and personal freedom against private individuals. In the case of *Consumer Education and Research Centre v. Union of India*, the court found that the right to health of employees is against private employers. It also

¹³ *Olga Tellis v. Union of India*, 1986 AIR 180

¹⁴ *Dr. Dilip Kumar Upadhyay*, 'Horizontal application of Fundamental Rights: Issues and Concerns' MU,

<<https://madhavuniversity.edu.in/horizontal-application.html#:~:text=The%20Article%20which%20prohibit%20discrimination,race%20or%20place%20of%20birth>> accessed 28th October 2022

emphasized that private actors are subject to this ruling and instruction under Article 32 of the Indian Constitution.

The Supreme Court held in **IMA v. Union of India**¹⁵ that the term ‘shops’ had a very broad meaning and did not only refer to a physical “shop”, but to any arms-length distribution of goods or services on the market, citing the Constituent Assembly Debates in support of its position. In that instance, the Court determined that schools fell under the definition of shops for the purposes of Article 15(2), and as a result, private schools were covered by the Constitution’s anti-discrimination protections. The Court’s rationale was based on the insight that the most prominent kinds of prejudice in Indian society had been horizontal and had taken the form of keeping a segment of the population out of the economic and social mainstream through boycotts and access denials.

But this kind of thinking still needs more development. In relation to Article 15(2), the Court has not yet provided a well developed definition of the meaning of the word ‘shops’ aside from Article 23. Additionally, the specific definition of the word ‘access’ has yet to be determined. Does ‘access’ encompass all forms of economic transactions between parties, including — to use a current dispute as an example — hiring and firing choices, or is it restricted to circumstances when private parties refuse to transact on the basis of a constitutionally forbidden red dot?

The case **Society for Unaided Private Schools of Rajasthan v. Union of India**¹⁶, the Court upheld the constitutional validity of Right to Education Act, 2009 and triumph the requirement of admitting 25% of students from disadvantaged groups in private and public schools between the ages of 6 to 14 years. This exemplified India as a welfare State and applied Fundamental Rights on a large scale. Thus, it is apparent that the Courts have utilized the horizontal consequences of basic rights on occasions for advantage of the entire nation.

Hence, based on the many examples provided above, we can deduce to a large part that the actual benefits of the FR will not be able to be experienced by residents until

¹⁵ *IMA v. Union of India*, (2011) 7 SCC 179

¹⁶ *Society for Unaided Private Schools of Rajasthan v. Union of India*, (2012) 6 SCC 1

the horizontal impact is applied. Such implementations of fundamental rights oblige a person to act as a responsible citizen and carry out their obligations honestly.

- 4. Indirect Horizontality** - In layman's terms, it means that constitutional rights, rather than immediately governing non-state actors, passively govern them by putting duties on them via law. This phenomenon works in two ways. Initially, where the state is obligated to defend private individuals against other private individuals, and where the constitution is expressly quiet on matters that are implicit for the accomplishment of the constitution's objectives. Secondly, whenever a court interprets constitutional rights to private law, it indicates that constitutional rights apply to private laws such as property law *Geeta Hariharan Case*, for instance.

One classic example of indirect horizontality is the famous case of *New York Times v. Sullivan*¹⁷, where the American Supreme Court found that the common law of defamation, as applied by the state Courts of Alabama against the New York Times, was inconsistent with the constitutional guarantee of the freedom of speech and expression. Consequently, in private defamation proceedings between Sullivan and the New York Times, the Court modified defamation law in order to bring it in line with the Constitution, and exonerated NYT. Whereas in US all private law are subject to constitution for example in New York Times case the private litigation was subject to the First Amendment.

Thus, we can say that here instead of focusing on the individual directly it governs all law which applies on individual In India Indirect Horizontal application has been used in many cases prominent among them is the Vishakha Case, where one anganwadi worker got raped by some miscreant. In that case Supreme Court has used indirect horizontal approach by using CEDAW guidelines against sexual harassment. In that case positive obligation imposed on state for protection of private individual from sexual harassments at work place. Indirect Horizontal effect in this way penetrate into the social setup where there is legislative gap exist and decrease the rift between public and private sector. The Supreme Court applied the Kriegler method in the Zoroastrian Society case, which states that in the lack of any rule forbidding any sort

¹⁷ *New York Times v. Sullivan*, 376 US 255 (1964)

of prejudice, the court will support the liberty of private individuals to contract, even if it is judged to be contrary to the spirit of the Constitution.

Furthermore, the domain of indirect horizontal application includes two subdivisions. The two different types of indirect horizontal effects are strong and weak. The strong indirect horizontal effect occurs while all private laws of the land are subjected to constitutional rights; meanwhile the weak indirect horizontal effect occurs when all private law is not regulated by the constitution. Canada is an excellent example of a country with lax horizontal legislation. In Canada, the Fundamental Rights guaranteed in the country's constitution do not apply to private law.

It's indeed clear that the FR has also been extended to the private domain as a result of the indirect horizontal application of constitutional protections that can be regarded as significant success in a modern democracy such as India. The bearing of fundamental rights on civil arbitration and regular private litigation is the other way in which they could have an indirect impact on non-state actors. Often the constitutional right does not apply to non-state actors, and hence horizontal application is not conceivable in such instances. In certain cases, the horizontal principle is applied indirectly, and the actions of non-state actors are ascribed to the state, and culpability falls on the state rather than the non-state actor. Even if they are held accountable by the state, the reach is quite limited. Judiciary also demonstrates leniency in the subjects to resolve instances wherein judicial system has to construe that litigation of private entities have some form of link therewith state hence making them responsible by indirect horizontal application.

3. THE STRUCTURE AND UNDERLYING VALUES OF ARTICLE 15

Article 15 has frequently been interpreted as a subset of the broad norm of equality enshrined in Article 14¹⁸. As an essential consequence to the promotion of the ideal of an equal society, the founding fathers deemed it imperative in Article 15(1) to ban the State from imposing any discrimination based exclusively on particular categories such as race, religion, caste, sex, or place of birth. While Article 15(1) requires all State officials to be colorblind to any disparity

¹⁸ *State of Kerala v. N.M. Thomas*, (1976) 2 SCC 310

imposed "just" on the aforementioned grounds¹⁹.

Article 15(2) progressively integrates the prohibited classification notion into the fabric of society by addressing private individuals, rendering the 'State action' doctrine inapplicable while creating a horizontal effect²⁰. It is asserted that inherent in the prohibition of prejudice based on such characteristics was the eagerness to abolish their reference: bias. It was thought that any differentiation based on the prohibited categories had to contain prejudice to the injury of the impoverished portion of society²¹.

The fundamental value of the Article must be judged to have infiltrated the fabric of society. The ZCHS case²², it is argued, does not support this fundamental value for the reasons listed:

Whereas the Court appears to dismiss the deed restriction as a harmless device intended to protect Parsi tradition and manner of life, there could be deeper to it than just that. Religion is a prohibited area since secularism "is the foundation of an equitable and forward-thinking society" on which "a unified and enduring nationhood in a multi-religious and culturally fragmented community" may thrive, and diversity is the base of Indian secularism²³.

Restrictive covenants, like the one used in the ZCHS case, do little to encourage such clean ideals. On the flip, history has taught us that polarized societies will never create a multi-pluralist society founded on religious tolerance. The disastrous effects of such polarization weighed heavily on the Court in *Bhau Ram*²⁴, where the ostensible objective of the statute of vicinage pre-emption would be to prevent intruders of a different faith, race, or caste from owning property in the vicinity. According to Wanchoo, J., this violated Article 15 since such separation of community into sections and isolation of newcomers from any region cannot be regarded acceptable²⁵.

Regardless of whether a reasonable justification for forming a residential society based solely on religion prevails, the conclusion of the ZCHS decision would authorize apartment buildings to validly discriminate not just on religious grounds, but also on race, caste, gender, and place of birth. If taken as a logical conclusion, it implies that one must become more acclimated to

¹⁹ *Air India v. Nergesh Meerza*, (1981) 4 SCC 335 (362)

²⁰ *M.C. Mehta v. Union of India*, (1987) 1 SCC 395 (418)

²¹ *Supra* Note 9

²² *Zoroastrian Cooperative Housing Society v. Director Registrar*, (2005) 5 SCC 632

²³ *Valsamma Paul v. Cochin University*, (1996) 3 SCC 545 (562)

²⁴ *Bhau Ram v. Baijnath Singh*, 1962 Supp (3) SCR 724 (735)

²⁵ *Bal Patil v. Union of India*, (2005) 6 SCC 690

surviving housing communities that are solely for individuals of a given race, area, or caste, etc. Such practices are detrimental to the interests of a multi-cultural community. It should also be noted that distinctions based on prohibited categories have an extremely separate effect than those relying on otherwise innocuous characteristics.

As in ZCHS decision, the Court attempted to associate religious cooperative housing organizations with cooperative housing societies specifically for vegetarians, agricultural workers, and laborers. It is argued that the equation does not hold since disparities depending on such innocuous criteria are not contradictory with our constitutional ideals and thus are not against public policy. That is, presuming that the ZCHS case logic is constrained to cooperative societies and does not apply to every private arrangement. It is said that defining traits primarily on these prohibited categories would only hurt the conscience of contemporary Indian society and should be avoided.

3.1 Can the State give its imprimatur in violation of Article 15?

3.2 The Kriegler approach

The second limb of the reasoning follows a different path. It presumes the existence of a private sphere in which private entities may enter into contracts with one another irrespective of constitutional values or their repercussions, since public policy is unimportant in this domain. Can courts as well as other arms of government, however, recognize and properly impose bad behaviors that the state is constitutionally prohibited from engaging in? Based on a highly acclaimed viewpoint of recent vintage, such private space has still been limited to instances in which there is no recourse to law since constitutional purposes and ideals must “pervade all laws”. As a result, no State authority could recognize contracts as legitimately binding and enforceable, in violation of Article 15.

In this respect, Kriegler, J. of the South African Supreme Court’s convincing dissenting judgment in **Du Plessis v. De Klerk**²⁶ is obviously illuminating. In this decision, Kriegler, J. went beyond the vertical/horizontal distinction to harmonize disproportionate intrusion with personal liberty with the all-encompassing nature of basic rights. The crux of the decision is that the Government, “as the producer of statutes, the administrator of laws, and the applier of laws, is required to abide within the four edges” of the basic rights chapter. Private

²⁶ *Du Plessis v. De Klerk*, (1996) 3 SA 850 (CC)

interactions are thus unaffected insofar as they are neither governed by nor resorted to and by legislation. As Kriegler, J. expressed it eloquently:

As long as the legislation is invoked, private entities are free to conduct their private matters as they think fit in terms of fundamental rights and freedoms. According to the chapter, a landowner is authorized to deny to lease an apartment to an individual because of their race, gender, or anything; a white chauvinist can choose not to sell estate to a racial minority; and a social club may exclude Jews, Catholics, or Afrikaners if they so like. An employer is entitled to prejudice on racial grounds when hiring employees; a hotelier might refuse to provide a room to a homosexual; and a cathedral might choose not to accept bereaved of a specific color or class. However, none of them can use the law to impose or defend their intolerance²⁷.

Despite its critics, this novel technique has piqued the curiosity of academics and been praised by eminent authors. It is also seen as a more logically consistent viewpoint than the contentious approach of the US Supreme Court in **Shelley v. Kraemer**²⁸, to which it bears some resemblance at first blush. A racially discriminatory covenant that barred a black couple from buying property in a white-dominated residential area was challenged in Shelley. In that instance, the respondents sued the black couple, preventing them from taking possession of the property and divesting their title to it.

The Court ruled that perhaps the restricted agreement was legitimate and did not infringe any of the petitioners' constitutional rights. The US Supreme Court overturned the previous judgment and held, presumably frighteningly, that compliance of the deed restrictions by the State courts actually constitutes "State action" since it possess the "clear and distinctive insignia of the State" because the appellants were denied enjoyment of their property solely on the basis of race.

Although Shelley's verdict was praiseworthy, the strategy of the Court has indeed been eloquently critiqued for the untenable repercussions which may ensue in labeling court orders as "State action". The critique has been significant, and a convoluted body of case law indicates that the rule in Shelley v. Kraemer may not always available in private action.

Furthermore, because the Kriegler method was used in the ZCHS case, it was clear that now the Registrar of Cooperative Societies, as a statutory authority underneath the local Act,

²⁷ Supra Note 28

²⁸ *Shelley v. Kraemer*, [1998] PL 423 (434-35)

would surely possess all of the requisite characteristics of 'State' for the purposes of Article 12. As a result, even if private entities are obligated by such provisions, the Registrar, as such an authority, cannot acknowledge as legally enforceable a restricted agreement that violates the constitutional mandate of Article 15.

4. CONCLUSION

So far, we've witnessed how the Horizontal Application of Fundamental Rights eliminates a public-private divide in constitutional law. Constitutional rights are attacked in the contemporary day by leading corporate actors and organizations, as well as governmental ones. Globalization of an economy, in particular, increases the importance of private actors while decreasing the role played by the state. As a result, private corporations violate fundamental rights more than the state. Therefore in regard, the contemporary Indian economy can be mentioned²⁹.

However, following Globalization in 1991, the importance of private enterprises grew exponentially. The state is now merely a facilitator, with companies wielding the majority of power. This has effectively annihilated the socialistic ideals that were part of the basic structural theory. Socialism advocates for equitable resource allocation, and its decline has culminated in class divisions in India. Therefore, in this Globalized world, "the rich get richer and the poor become poorer". While the Indian courts continue to recognize the enormity of the problem, the Parliament appears to be unconcerned³⁰.

A purely vertical application of Fundamental Rights may endanger India's democracy. Such issue has indeed been globally recognized, and many governments have effectively overcome it. The Irish Constitution, for illustration, accepts the concept of constitutional torts. Based on this view, if a person's fundamental rights are violated by another, that person (victim) has the right to seek restitution directly from the abuser. As a result, direct horizontality is accomplished and expressly safeguarded by the constitution. Another illustration in point is South Africa. South Africa's Constitution strikes a balance amid direct and indirect horizontality. In such a situation, an invocation of the legislation by one individual in an action against another results in the creation of Fundamental Rights based on such law.

This is due to the fact that all statutes, either regulating the relationship between the

²⁹ Supra Note 7

³⁰ Supra Note 7

individual and the state or among individuals, are ultimately governed by the Constitution. In addition, the concept of indirect horizontality is widely used in Canada. However, the situation in the United Kingdom remains ambiguous, as it is in India. India, like these other countries, should adopt this principle. The Parliament should pass legislation that allows Fundamental Rights to be enforced against commercial enterprises as well. Given the recent violations, it is crucial that these rights be protected.

