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Dissent & Democracy

Wangchuk's release highlights the key problem of arbitrary use of harsh laws

TOI Editorials

GOI dropping the most serious allegation, against climate and statehood activist Sonam Wangchuk, raises even more questions for authorities, than his detention did six months ago. From time he was picked up, last Sept, and lodged in Jodhpur jail, it was clear the draconian National Security Act had been invoked without much thought. Wangchuk was accused of inciting a Gen Z protest in Ladakh, supposedly along the lines of Bangladesh and Nepal, and even Arab Spring was referenced. His actions were termed “prejudicial to the security of the state”. He was on his fifth protest fast (Delhi Chalo Padyatra) for statehood, and inclusion of Ladakh in Sixth Schedule. Yet, instead of letting a peaceful protest carry on, authorities jailed him for six months – half the maximum period of detention without charges, allowed under NSA. And linked him to the deaths of protesters, on Sept 24, in police action.

Wangchuk's release comes after govt concluded that “Ladakh's problems” must be resolved through “engagement and dialogue”. Are we to conclude that fundamental freedoms are vulnerable to this extent to a govt's shifting frameworks for governance? Surely not. Of course, it is welcome that govt finally recognises that crackdowns and heavy-handed responses foment trouble, while peaceful protests form the beating heart of a healthy democracy. Dialogue is everything.

But the real question remains: how fickle are fundamental freedoms? It is good that govt realised jailing Wangchuk hurt its own cause for peace in the new UT. Crackdowns on protests, arrests, and routine invocation of toughest laws, have long been knee-jerk reactive policing of Indian cops, blessed by their political masters. Dialogue after detention is really an admission of excess. And it is a fact that a law like NSA, which must be used judiciously and sparingly, loses its legitimacy, when it is used to police dissent.

THE ECONOMIC TIMES

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New Delhi Gets Real About Leh Concerns

Wangchuk's release sign of a mature state

ET Editorial

Some facts first. Sonam Wangchuk had been detained under National Security Act since September 26, 2025, for allegedly acting in a manner prejudicial to the security of the state and public order amid protests that year

over demands for 'greater political autonomy' and 'constitutional safeguards' for Ladakh. On Friday, GoI decided to revoke his 6-mth detention — three days before Supreme Court is scheduled to hear a habeas corpus petition. The decision is as welcome as it's a sign that India may be recognising that critique and dissent may not be always the same as being an 'enemy of the state'.

Roots of Ladakh's discontent go back to Article 370 changes in 2019, when the state of J&K was bifurcated into two UTs — Jammu & Kashmir with a legislature, and Ladakh without one. The shift left Ladakh under the thrall of central administration, and intensified anxieties about political representation, jobs and autonomy — things 'political' for Delhi, but quite practical for people on the ground. With over 90% of Ladakhis belonging to STs, demands have grown for safeguards through inclusion in the 6th Schedule that provides autonomous district councils in several NE states with powers over land, forests, local governance and cultural preservation. In 2019, National Commission for Scheduled Tribes recommended that Ladakh be brought under it. Yet, GoI sought to maintain status quo, allowing frustrations to fester. Protests intensified in 2025, with Wangchuk emerging as one of the most voluble voices. Yes, the Constitution envisages 6th Schedule primarily for the NE. But institutional innovation is possible when political will exists.

In border regions like Ladakh, governance must not rely solely on administrative control but also rest on legitimacy and consent. New Delhi risked eroding trust for too long for something that was hardly existential. Wangchuk's release offers an opportunity. But rebuilding confidence will need dialogue, credible institutional assurances and a willingness to revisit the region's constitutional questions.

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Stabilisation Fund Can Be a Shock Absorber

ET Editorial

India's economic stabilisation fund is a timely initiative, and GoI can take credit for creating it without undue fiscal stress. The extra cushion against external shocks will come in handy while negotiating the crisis in West Asia. It helps to sequester the money when the economy is going through a period of robust growth and low inflation. A fund dedicated to tiding over temporary volatility in commodity markets frees up policy space for longer-term macroeconomic management. The anti-volatility fund will be a worthwhile addition to the countercyclical policy toolkit at a time when global shocks are rising to coincide with India's increasing exposure to them.

Since the beginning of the decade, GoI has had to negotiate a pandemic, energy and food shocks, as well as tariff wars. The incidence of external shocks is climbing as structural adjustments relieve domestic economic pressure. Improved welfare delivery and accelerated capex have made the economy more resilient, yet it still depends on imports for food, energy and manufacturing inputs. Rising productivity exposes the economy more to resource inadequacy, whether natural gas or rare earth minerals. A financial backstop is useful as the economy draws up its energy transition pathways.

Stabilisation funds have a successful record across the world, and India's experience is likely to be favourable. Principally, they address the need for risk mitigation without slackening fiscal discipline or threatening macroeconomic stability. They also complement efforts to develop storage infrastructure across commodities

that make up a sizeable portion of India's trade with the world. Setting up the fund is, of course, the easy bit. Putting it to the best use takes some effort.



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Another barrier

Mandatory period leave sans parity in recruitment will hurt women

Editorial



When considering a measure to address a work-related need, care must be taken to ensure that it does not inadvertently reduce the employee's opportunity to work. This was again made evident on March 13, when a two-judge Bench of the Supreme Court, headed by Chief Justice of India Surya Kant, refused to entertain a petition seeking a law providing menstrual leave for women workers and students. The Court cautioned that mandatory menstrual leave could unintentionally hinder women's careers and deny them "big responsibilities". Instead, it encouraged "voluntary" initiatives by States. In Odisha, women government employees up to the age of

55 can take an additional day of leave each month, while Kerala grants menstrual leave to female trainees in ITIs and universities. Karnataka issued an order that entitles women in the public and private sectors up to the age of 52 to a day's menstrual leave a month, raising concerns whether private establishments might be disincentivised from hiring women. This government order has been challenged in the High Court. Such changes must come with safeguards, and the top court rightly suggested that the government come up with a menstrual leave policy in consultation with stakeholders — as it had done in 2024 as well.

Many women face debilitating menstrual pain and conditions such as endometriosis, PCOD and PCOS. But the Court's reasoning rests on another, more universal reality: women are already disadvantaged at work, facing systemic barriers such as unequal pay. In this context, mandatory menstrual leave could become a form of biological determinism, limiting opportunities, pay and promotions for women. In countries where menstrual leave policies exist, they are either poorly enforced or are not opted for by most women. In Spain, legislation enacted in 2023, and hailed as "... historic ... for feminist progress", saw few women exercising the right a year later. In Zambia, some women said it was being misused. In India, the female Labour Force Participation Rate rose from 23.3% in 2017-18 to 41.7% in 2023-24, driven largely by rural women entering work due to distress, insecure employment and unpaid household work. In this context, a blanket menstrual leave policy could be counterproductive: many women cannot afford to lose workdays, and in informal jobs, it may also be unenforceable. Providing free sanitary products and medicines at workplaces and allowing time off under

existing leave provisions would be a way forward. That would be an acknowledgement of biological realities without turning such well-intentioned but poorly thought-out initiatives into yet another barrier to women's participation.

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On the right to die with dignity

The right of refuse of medical treatment was held to be a manifestation of dignity intersecting with privacy, autonomy, and self-determination

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On an evening in 2013, 20-year-old Harish Rana fell from the fourth floor of his PG accommodation and sustained critical injuries. His condition confined him to a bed while tubes kept him on life support. Owing to his Persistent Vegetative State (PVS), he responded to no stimuli around him and was largely nursed by his parents, with frequent visits to the hospital. Mr. Rana's closest friends and family, who fondly describe him as energetic and exuberant, were faced with the agonising pain of witnessing his stasis. His parents, along with the doctors, devoted 13 years in tending to Mr. Rana, but no improvement was seen. Confronted with such despairing circumstances, the parents moved the Supreme Court to withdraw life support, so that nature can be allowed to take its course. What followed was a pivotal discourse on the import of life under Article 21 of our Constitution.

A respectable death

The Constitution's tryst with 'Right to Life with dignity' was first laid down in *Gian Kaur vs State of Punjab* (1996) where the Supreme Court held that 'life' under Article 21 included the right to live with dignity. However, in *Gian Kaur*, the Court opined that Article 21 did not include the right to die.

Fifteen years later, a similar case reached the Supreme Court when a young Aruna Shanbaug, owing to a brutal sexual assault, was left in PVS. Pinki Virani, journalist, and human-rights activist, petitioned the Supreme Court as Aruna's friend for withdrawal of her life support. Although under its own circumstances, Virani's plea was rejected, it culminated in the crucial decision of *Aruna R. Shanbaug vs Union of India* (2011). The Supreme Court drew sustenance from foreign legal frameworks and recognised passive euthanasia in cases of patients with terminal illness and undergoing prolonged, but ineffective treatment. Guidelines were framed to bridge the legislative gap, until Parliament promulgated on the subject. Additionally, the Law Commission in 2006 and 2012, entered into an in-depth examination of the above-detailed issues and made extensive observations. It reported that withholding life support from terminally ill patients should not attract criminal liability if done in pursuance of the "best interest of the patient."

The watershed moment on the subject was the 2018 Constitution Bench's decision in *Common Cause vs Union of India*. Armed with developing jurisprudence on the subject, the Supreme Court unequivocally recognised and permitted the withdrawal/ withholding of medical treatment to fall within Article 21. The right of refusal of medical treatment was held to be a manifestation of dignity intersecting with privacy, autonomy, and self-determination. This judgment provided extensive guidelines and underwent certain modifications in a similarly titled 2023 decision. These are now cumulatively referred to as the 'Common Cause guidelines', which rest on

two core principles: first, that the intervention in question must qualify as “medical treatment”; and second, that its withdrawal must be strictly in the patient’s “best interest.”

The Supreme Court embedded various safeguards to prevent misuse and a detailed procedure involving opinions of primary and secondary Medical Boards prior to undertaking such decisions. The legislative void was once again highlighted by the Court and one Judge expressed the “pious hope” for legislative intervention. This hope still lingers.

Case evaluation

The Harish Rana chronicle has now reached its end with the intervention by the Supreme Court. Speaking through two judges, who authored separate but concurring judgments, the Court allowed the withdrawal of life support from Mr. Rana under the Common Cause guidelines. Since he relied on Clinically Assisted Nutrition and Hydration (CANH), the first question which required consideration was whether CANH qualified as ‘medical treatment.’ To answer this, the Court noted that the administration of CANH requires careful and experienced medical supervision. Since such skills are only available by drawing upon medical knowledge, and owing to its continuous periodic evaluation, emergency medical management and supervision, it was held to be ‘medical treatment.’ The second question was whether the withdrawal of CANH from Mr. Rana was in his best interests. It held that ‘best interests’ must be envisaged from the lens of the stakeholders, who are the next of kin and medical boards. It was rightly opined that a doctor’s duty to perform treatment continues till it is capable of “conferring some therapeutic benefit.” When recovery is impossible, the continuation of treatment merely prolongs biological existence de-hors any benefits. It led to the sole conclusion — withdrawal of treatment which was noted to be in Mr. Rana’s best interests.

A definitive end

“For in that sleep of death what dreams may come, when we have shuffled off this mortal coil, must give us pause.” Through his prose, the Bard cautioned that hesitation about death stems from the uncertainty of what comes after. However, what is definitive is that the ones who pass-on tend to live through us. Harish Rana will soon die. Yet, his contributions will forever be etched in history and in our constitutional jurisprudence.

And so, the advancement of constitutional morality is not only circumscribed to legislative actions which reach the country at large. It is also through addressing uncomfortable issues that advance the cause for humanity, even if they concern just an indiscernible minority.

टीकों पर लोगों का भरोसा बढ़ाएगी मुआवजा नीति

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पिछले सप्ताह सर्वोच्च न्यायालय ने केंद्र सरकार को कोविड- 19 टीकाकरण के बाद होने वाली गंभीर दुर्घटनाओं के लिए 'नो फॉल्ट मुआवजा नीति' तैयार करने को कहा है। अदालत ने कहा कि टीकाकरण अभियान सरकार के माध्यम से संचालित होते हैं और इसलिए उनके साथ जवाबदेही और मुआवजे की व्यवस्था भी होनी चाहिए। यह नागरिकों और सरकार के बीच मौजूद 'सामाजिक अनुबंध' का हिस्सा है।

निस्संदेह, टीके हर वर्ष लाखों लोगों की जान बचाते हैं, लेकिन बहुत ही दुर्लभ परिस्थितियों में वे गंभीर दुष्प्रभाव भी दिखा सकते हैं। एक परिपक्व स्वास्थ्य व्यवस्था इस आशंका को स्वीकार

करती है, प्रभावित लोगों को भरपाई करती है और टीकाकरण के प्रति समाज के भरोसे को अधिक मजबूत बनाती है। यही वह संदर्भ है, जहां 'नो फॉल्ट मुआवजा प्रणाली' की अवधारणा महत्वपूर्ण हो जाती है। पारंपरिक कानूनी प्रक्रिया में पीड़ित व्यक्ति को यह साबित करना पड़ता है कि किसी की लापरवाही या गलती के कारण नुकसान हुआ है। इसके विपरीत, 'नो-फॉल्ट' व्यवस्था यह मानती है कि मानकों और नियामक सुरक्षा के बावजूद कभी-कभी प्रतिकूल परिणाम सामने आ सकते हैं। इसका उद्देश्य उन व्यक्तियों को समय पर आर्थिक सहायता देना है, जिन्होंने सार्वजनिक हित के लिए चलाए गए कार्यक्रम में भाग लेते हुए दुर्लभ और गंभीर नुकसान झेला है।

यह विश्वास तब और महत्वपूर्ण हो जाता है, जब नए टीकों की शुरुआत की जाती है। हाल ही में भारत ने किशोरियों के लिए 'ह्यूमन पैपिलोमा वायरस' (एचपीवी) टीका उपलब्ध कराने की दिशा में महत्वपूर्ण कदम उठाया है, जो सर्वाइकल कैंसर की रोकथाम में अत्यंत प्रभावी माना जाता है। फिर भी कई क्षेत्रों में इसकी स्वीकार्यता अभी सीमित है। वैश्विक वैज्ञानिक प्रमाणों के बावजूद, पूर्व की कुछ विवादित घटनाओं और गलत सूचनाओं के कारण लोगों के मन में संदेह बना हुआ है। इस स्थिति में पारदर्शी नीतियां टीकों के प्रति भरोसा बढ़ाने में सहायक हो सकती हैं।

हालांकि, इस तरह की नीति के साथ कुछ चिंताएं भी जुड़ी हुई हैं। आज के समय में जब सूचना बहुत तेजी से फैलती है और सोशल मीडिया अफवाहों को बढ़ावा देता है, टीकों से जुड़े जोखिमों को गलत तरीके से पेश किया जा सकता है। यदि संवाद सावधानीपूर्वक न किया जाए, तो मुआवजा नीति को कुछ लोग इस रूप में भी देख सकते हैं कि टीके असुरक्षित होते हैं। ऐसे माहौल में किसी भी नीति के साथ स्पष्ट और जिम्मेदार संवाद अत्यंत आवश्यक हो जाता है।

इस नीति को लागू करते समय कई बातें ध्यान में रखनी होंगी। प्रतिकूल घटनाओं के कारणों की पड़ताल वैज्ञानिक और पारदर्शी तरीकों से होनी चाहिए। चिकित्सा विशेषज्ञों, महामारी विज्ञानियों और कानूनी विशेषज्ञों के स्वतंत्र पैनल को प्रमाणों के आधार पर निर्णय लेना चाहिए। इसके साथ-साथ प्रक्रिया सरल और समयबद्ध होनी चाहिए, ताकि प्रभावित परिवारों को वर्षों तक अदालतों के चक्कर लगाने पड़ें। इसके लिए आर्थिक संसाधनों की व्यवस्था भी होनी चाहिए। संभव हो, तो इसके लिए सार्वजनिक स्वास्थ्य कोष या टीका खरीद से जुड़े छोटे वित्तीय योगदान जैसे मॉडल अपनाए जाएं, जैसा कई देशों में होता है।

कोविड 19 महामारी ने यह दिखाया कि बड़े पैमाने पर टीकाकरण अभियान प्रभावकारी पर जटिल भी हो सकते हैं। वैज्ञानिक उपलब्धियों ने टीकों को संभव बनाया, पर उनकी सफलता अंततः लोगों के विश्वास और भागीदारी पर निर्भर रही। प्रस्तावित 'नो फॉल्ट मुआवजा नीति भारत में टीकों के प्रति भरोसे की नींव को और मजबूत कर सकती है, बशर्ते इसे सोच-समझकर तैयार किया जाए। दुर्लभ प्रतिकूल परिस्थितियों में प्रभावित परिवारों को सहारा देने से सार्वजनिक स्वास्थ्य संस्थाओं की विश्वसनीयता बढ़ सकती है। ऐसे समय में, जब गलत सूचनाएं अक्सर वैज्ञानिक तथ्यों की तुलना में तेजी से फैलती हैं, यह नीति एक महत्वपूर्ण संदेश दे सकती है कि जब नागरिक सामूहिक स्वास्थ्य की रक्षा के लिए आगे आते हैं, तब राज्य भी उनके साथ न्याय, पारदर्शिता और संवेदनशीलता के साथ खड़ा रहता है।
