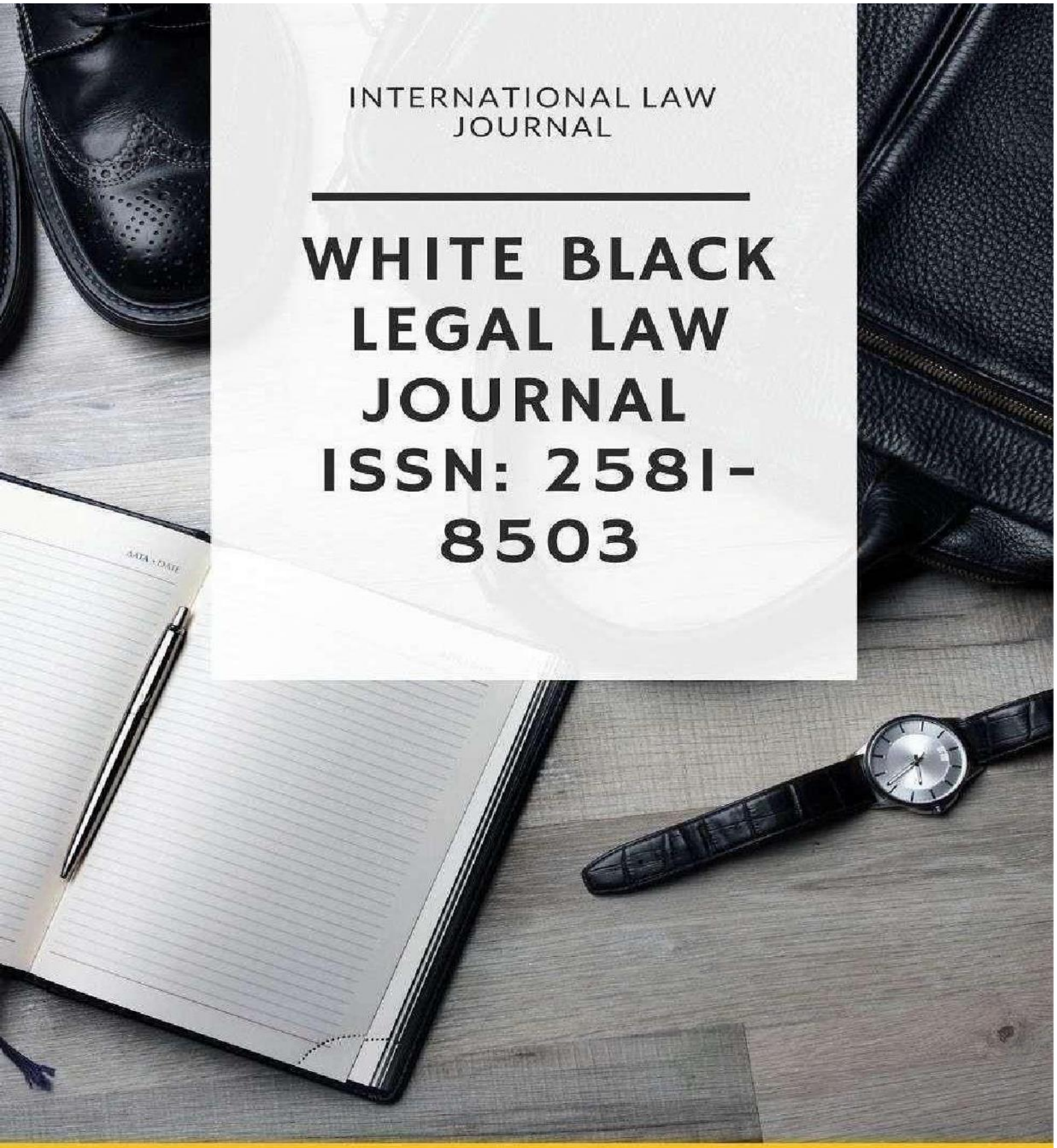


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THE CONSTITUTIONAL FACE OF BEAUTY: EXPLORING IMPLICIT RIGHTS AND LEGAL SAFEGUARDS IN INDIA'S COSMETICS INDUSTRY

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Abstract –

Cosmetics have become an essential part of contemporary life, impacting social conventions, health, psychological well-being, and personal identity. Serious constitutional issues have been brought up by the cosmetics industry's explosive growth in India because many of its goods are counterfeit, contain hazardous or untested substances, or are not properly controlled, endangering the public's health and safety. A recent international lawsuit against Johnson & Johnson over talcum powder tainted with asbestos highlights the serious repercussions of regulatory failure in the cosmetics industry and should serve as a warning to India.

Article 21 specify about Right to health, dignity, life and privacy and bodily autonomy[2], equality and non-discrimination under Articles 14 and 15, environmental protection under Article 48A, are among the constitutional liberties that are examined in this paper in connection with cosmetic regulation. Additionally, it draws attention to new issues including the pink tax, deceptive beauty standards, animal testing, environmental damage, and the difficulties presented by online cosmetic markets.

The report promotes more stringent safety regulations, more transparency, ethical sourcing, and robust enforcement measures in support of a rights-based regulatory framework. It argues that in a more intricate and international beauty business, cosmetic regulation must go beyond consumer protection to satisfy constitutional objectives of health, equality, dignity, and justice.

Keywords-Cosmetics, Pink Tax and gender Justice, Right to Health and mental wellbeing, Misleading advertisements and false claims.

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[2] Indian Constitution. art. 21.

1. Introduction –

The beauty and personal care industry in India is quickly growing due to a major shift in consumer perceptions of beauty, which is creating new opportunities and trends. India came in fourth place in the world for earning the most money from the beauty and personal care sector. The personal care sector in India is expected to rise to an astounding 34 billion US dollars by 2028. It is projected that the Indian cosmetics business will bring in about USD 6.90 billion by 2025. The market category is expected to increase at a rate of 3.82% per year (CAGR 2025-2030).[3]

As cultural and commercial commodities, cosmetics are crucial in determining identity, how one presents oneself, and how one perceives one's body. Despite their widespread use, cosmetics are frequently regarded in legal discourse as simple commercial products that need technical control. But the actual use of cosmetics—such as the proliferation of skin-lightening chemicals, hair dyes, anti-aging serums, fairness creams, and personal care items—shows that these products have a direct impact on identities and bodies. They have an impact on wellbeing, confidence, and social mobility in addition to attractiveness**.**

However, hazards that go beyond commerce are triggered by safety concerns about dangerous substances, false claims, counterfeit goods, and insufficient disclosure procedures. Article 21 of the Constitution, which covers the rights to life, health, clean and safe environments, bodily integrity, informational privacy, and dignity, is implicated in these issues. When health and safety are at risk, the Supreme Court of India has consistently acknowledged that consumer protection is covered by the constitutional mandate.

This research therefore explores the central question: to what extent do cosmetics in India engage implicit constitutional rights, and how adequately does the current regulatory framework safeguard them? The paper combines doctrinal analysis of statutes and case law with an evaluation of regulatory practice, empirical literature.

2. Historical Back Ground-

India's cosmetics laws have changed in reaction to changes in the country's constitution and public health issues. Cosmetics were mainly unregulated during the colonial era, which permitted the selling of dangerous and tainted goods. The earliest legislative attempt to control cosmetics was The Drugs and Cosmetics Act of 1940(, hence forth referred as DCA,1940)

[3] Cosmetics-India, Beauty and personal care, Statista, available at - https://www.statista.com/outlook/cmo/beauty-personal-care/cosmetics/india

which treated cosmetics as low-risk consumer items and mainly focused on avoiding misbranding and adulteration.

The interpretation made by court of Article 21, which evolved to include the right to health, dignity, bodily integrity, and protection from hazardous substances, gave cosmetic control constitutional significance after the Indian Constitution was adopted in 1950. Concerns about hazardous materials, deceptive advertising, animal testing, child exploitation in mica mining, and environmental harm started to implicate Articles 14, 15, 21, 24, 48A, and 51A(g) as a result of globalisation and the expansion of India's cosmetics sector.[4]

Efforts to update regulations are reflected in the Cosmetics Rules, 2020. A rights-based regulatory strategy is desperately needed, as demonstrated by recent international instances like the Johnson & Johnson talcum powder lawsuit.

3. Defining "Cosmetics" and the Regulatory Framework –

3.1 Statutory Definition -The Drugs and Cosmetics Act, 1940 (DCA) defines "cosmetic" under Section 3(aaa) as:

"any article intended to be rubbed, poured, sprinkled or sprayed on, or introduced into, or otherwise applied to, the human body… for cleansing, beautifying, promoting attractiveness or altering the appearance" and includes any component of cosmetic.**[5]**

The definition in a way seems surprisingly straightforward. It recognises a cosmetic according to how it is supposed to be used—to cleanse, beautify, enhance beauty, or change appearance. However, when considered through a contemporary analytical lens, this deceptively simple clause presents major regulatory, constitutional, interpretative, and complication to public health.[6]

3.2 Cosmetics Rules, 2020[7]

In 2020, the Ministry of Health notified the Cosmetics Rules, which replaced earlier cosmetic provisions under the DCA. The framework includes:

1. mandatory registration of imported cosmetics
2. labelling and ingredient disclosure requirements

[4] INDIA CONST. arts. 14, 15, 21, 24, 48A, 51A(g).
[5] Drugs and Cosmetics Act, No. 23 of 1940, § 3(aaa), India.
[6] Drugs and Cosmetics Act, No. 23 of 1940, § 3(aaa), India; Cosmetics Rules, 2020, G.S.R. 763(E) (India); Standing Comm. on Health & Family Welfare, *Forty-Fifth Report on the Regulation of Cosmetics in India* 3.2–3.6 (2021).
[7] Drugs and Cosmetics Act, No. 23 of 1940, §§ 10, 18, India; Cosmetics Rules, 2020, G.S.R. 763(E) (India).

3. rules for safety evaluation
4. manufacturing standards
5. prohibition of harmful ingredients
6. compliance inspections

The 2020 Rules were designed to update cosmetic regulations in response to changing international standards, growing consumer consciousness, and the growing presence of international cosmetic brands in India. The drugs and Cosmetics Act, 1940, mark the biggest revision to India's cosmetics laws in eight decades. The procedural and substantive regulations pertaining to manufacture, import, safety, quality control, and labelling are greatly expanded and replaced by them.

3.3 Regulatory Agencies

The regulatory structure includes:

1. Ministry of Health & Family Welfare (MoHFW) – overarching authority
2. Central Drugs Standard Control Organization (CDSCO) – licensing, import oversight, safety surveillance
3. State Licensing Authorities – manufacturing inspection
4. Bureau of Indian Standards (BIS) – voluntary but increasingly adopted standards on testing, permissible impurities, heavy metals, microbiological limits

BIS standards cover products like skin creams (IS 6608), lipsticks (IS 9875), and eye cosmetics (IS 4707). However, unlike the EU, BIS standards are not universally mandatory.[8]

4. Constitution as a Framework for Cosmetic Governance

Despite being viewed as luxury or non-essential goods in the past, cosmetics are progressively violating fundamental constitutional rights in India. Chemical, hormonal, or nanoparticle-based compositions found in many contemporary cosmetics have the potential to impact human health, physical integrity, and psychological well-being. Constitutional law becomes a crucial lens for assessing the effectiveness of India's regulatory framework as the cosmetics industry gets more complicated and significant.

Cosmetic safety in India is not merely a regulatory or consumer issue—it is fundamentally constitutional.[9]

[8] Central Drugs Standard Control Org., *Cosmetic Regulation in India* (2021).
[9] Standing Comm. on Health & Family Welfare, *Forty-Fifth Report on the Regulation of Cosmetics in India* ¶¶ 4.8–4.12 (2021)

4.1 Article 14- assurance By guaranteeing that equal protection to every individual from hazardous, poisonous, and dangerous cosmetics items, equality before the law and equal protection under the law serve as a constitutional check and bolster consumer protection. The laws governing cosmetics must be enforced consistently to all producers and goods. It is not appropriate to exempt a product that poses a health danger. The enforcement of cosmetics safety regulations must be done fairly and impartially by the regulatory bodies. The quality of the products shouldn't differ. The same level of inspection and compliance requirements should apply to both foreign and Indian cosmetics brands. Everyone has the right to safe products, regardless of caste, creed, ethnicity, or religion.[10]

4.2 Article 19 (1) (g)-Freedom to Practice any Profession-

Ensures that cosmetics businesses and professionals can operate freely, and consumers have access to range of safe products. However, this right is not absolute, the government can regulate cosmetics to protect health and public interest, as long as such restrictions are reasonable and non -discriminatory. [11]

For example, laws like Drugs and Cosmetics Act,1940 serve as such restriction by regulating ingredients, labelling, and safety standards of cosmetic products to protect consumers from harm. Drugs and Cosmetics Act 1940 is an example of reasonable restriction aims at preventing harmful or unsafe products. While businesses enjoy the right to advertise which can be linked to commercial free speech, this right is not absolute. The government can curb Ads that are damaging or deceptive and make untrue claims regarding products in order to safeguard public interest.

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4.3 Article 21 states:

"No person shall be deprived of his life or personal liberty except according to procedure established by law."[12]

The Supreme Court has interpreted "life" to include living with dignity, health, clean air, and bodily integrity (e.g., Francis Coralie Mullin v. Administrator, Union Territory of Delhi).

Cosmetics have direct implications for these values: Dignity and autonomy: decisions about appearance and bodily presentation are deeply personal. Health and safety: toxic cosmetics can endanger life and well-being. Gender equity: harmful cosmetics disproportionately affect

[10] E.P. Royappa v. State of Tamil Nadu, (1974) 4 S.C.C. 3
[11] Modern Dental Coll. & Research Ctr. v. State of Madhya Pradesh, (2016) 7 S.C.C. 353.
[12] INDIA CONST. art. 21

women and marginalized groups.[13]

4.4 Article 19(1)(a): Article 19(1)(a): Right to Information & Protection Against Misleading Ads

Consumer autonomy is undermined by deceptive cosmetic marketing that include inflated fairness claims, medically implausible results, or altered imagery.

According to Article 19(1)(a): Customers are entitled to accurate commercial information.

-Businesses cannot deceive people by using "commercial speech."

-False cosmetic marketing may be regulated by the state under the constitution. Courts have consistently ruled:

- Consumer rights are violated by deceptive advertising

-False assertions limit the ability to make an informed decision.

- The government must shield its citizens against dishonesty.

- Cosmetic advertising is therefore a constitutional duty linked to information rights rather than just a business matter.[14]

4.5- Article 32 & PIL Jurisdiction: Cosmetics as a Public Interest Issue there is increasing concern over degrading health issues being addressed by the Supreme Court and High Courts through PILs. PIL-friendly topics include cosmetics, particularly fairness creams, children's products, and toxic dyes. The factors that follow are possible reasons for PIL intervention: dangerous components

Absence of clear labelling selling fake or fraudulent cosmetics lack of post-market monitoring Deceptive advertising that damages people's mental health Courts may use their constitutional authority to order the government to: Revise safety regulations prohibit hazardous chemicals control the sale of cosmetics online. [15]

Thus, cosmetic regulation can be expanded through judicial activism.

4.6 Directive Principles (Article 47): State Duty to Improve Public Health - Article 47 obligates the State to:[16]

"raise the level of nutrition and the standard of living and to improve public health." Courts

[13] Consumer Educ. & Research Ctr. v. Union of India, (1995) 3 S.C.C. 42.
[14] Advertising Standards Council of India, *Code for Self-Regulation in Advertising* (2021).
[15] **Cosmetics Rules, 2020, G.S.R. 763(E), rr. 34–36 (India)** (labelling, misbranding, safety obligations)
[16] INDIA CONST. art. 47

regularly employ DPSPs to interpret the scope of Article 21, despite the fact that they are not enforceable. Article 47 directly supports the State's need to regulate cosmetics because dangerous cosmetics have an impact on:

-health of the skin

- health of children

-reproductive health

- prolonged exposure to toxins

- psychological health (e.g., standards of justice)

The constitutional requirement that the State impose stringent regulations on cosmetics is thereby reinforced by Article 47. [17]

4.7 Article 51A(g)-[18]

which includes making educated and environmentally responsible decisions like choosing sustainable, cruelty-free, and eco-friendly cosmetics. A moral and constitutional basis for the promotion of cruelty-free cosmetics is provided by Article 51A(g). Avoiding dangerous chemicals in cosmetics goods and utilising recyclable or biodegradable packaging are part of the responsibility to protect and enhance the environment.

Below is the interpretation of the related articles

Article 21 → requires safe, non-toxic products

Article 14 → blocks arbitrary classification and unequal protection

Article 19 → demands truthful information and prevents deceptive advertising

Article 47 → imposes public health duties

Article 51A → frames environmental and scientific responsibilities

Judicial review under Article 32 → can fill regulatory gaps

Thus, the Constitution offers a normative basis for updating India's cosmetic regulations and guaranteeing that the use of cosmetics promotes equality, health, and dignity rather than endangers them.

[17] Consumer Educ. & Research Ctr. v. Union of India, (1995) 3 S.C.C. 42

[18] INDIA CONST. art. 51A(g).

5.India's Implicit Constitutional Protections for Cosmetics-

5.1 Pink Tax and Gender Discrimination- In India, the term "Pink Tax" refers to higher prices for women's personal and hygiene care product rather than any official government tax. This price disparity occurs when goods and services marketed to women are sold at higher prices than those marketed to male, even though they are of comparable quality and functionality. In industries including personal care, apparel, healthcare, and grooming services, the pricing disparity is frequently observed. This discrepancy adds to the continuation of gender-based financial inequality and is a reflection of gender discrimination.

The phrase "Pink Tax" refers to products that are specifically promoted to women. Sanitary napkins were classified as non-essential luxury items and subject to a 12% tax when the Goods and Services Tax (GST) was implemented in India in 2017, which is when the debate about the pink tax actually began. This decision, which was perceived as unfairly impacting women's right to basic health and hygiene goods, sparked outrage and quiet criticism. In 2018, the government repealed the GST on sanitary napkins in response to public outrage, recognising its significance in promoting women's health

The Supreme Court of India ruled in Anuj Garg's case[19] that gender-based laws must pass the "Strict Scrutiny" standard, especially if they in breach of fundamental rights guaranteed by Articles 14 and 15 of the constitution. The gender pricing of cosmetics and the Pink Tax are examples of discriminatory practices that are related with the constitutional issues brought up in Anuj Garg's case. These pricing methods target women-focused products such deodorants, shampoos, razors, facewash, and face creams, which are frequently marketed at higher rates than their male equivalents while having comparable functions and quality, even if they are not required by law. The Indian Constitution's Right to Equality under Article 14 and Protection against Discrimination under Article 15 are violated as a result of economic inequality and discrimination based on gender. Such practices frequently go unnoticed and are viewed as unfair or discriminatory in the absence of a clear legal prohibition on gender-based pricing.

5.2 Misleading Advertisements and False claims- The beauty business has come under fire in recent years for activities involving deceptive advertising and fraudulent promises. It has been noted that commercials are prioritised over quality in the name of quality control for the sale of products that are flooding the market. A number of deceptive advertisements are displayed, such as those featuring Deepika Padukone and Imraan Khan for Lux, Yami Gautam

[19] *Anuj Garg v. Hotel Ass'n of India*, (2008) 3 S.C.C. 1 (India).

and Sharukh Khan for Fair and Lovely and Fair and Handsome, and Santoor soap, which claims that consumers can look young by using it on a daily basis. Gimmicks, such as the employment of eye-catching containers, colours, labels, dialogue, product advertising, etc., are used to appeal to a consumer's psychological needs and persuade them to purchase goods they believe they intended to. All of these tricks and puffs encourage and persuade people to buy and use cosmetics that they believe to be worthwhile and helpful but are actually ineffective. These deceptive ads have a adverse effect on customers, which eventually results in consumer exploitation.[20]

In the recent **case of 'Fair & Lovely'**[21], a fairness cream by HUL was launched a nationwide challenge and bragged about their ability to provide whiteness and fairness that cannot be matched by any other product in the market. After revolt against racial discrimination Hindustan Unilever Limited's Fair & Lovely faced a lot of backlashes on social media for building unreal beauty standards and stereotyping skin tones in India and had to re brand their cosmetics products and name it Glow and Lovely instead of fair and lovely.

Another case of misleading advertisement is of **Dr Batra Clinic Case.**[22]The beauty business grams our attention with all those misleading advertisements telling us what we should want or need -it could be whiter than white face or spotless complexion in just a week etc. Many cases have been registered on this king of misleading advertisements like in 2013-2013 Dr. Batara's hair care became a nightmare for and young prematurely balding Chandigarh boy Harjot Singh, a minor who hoped and desired that the positive Health Clinic with its 'cutting edge technology 'would help his hair grow back. But to his horror he ended up losing even his eyebrows with what was advertised as a wonder drug for baldness.

5.3 Right to Health and Protection from Toxic Substances

The Supreme Court has construed the right to life under Article 21 of the Constitution broadly to encompass the right to health and protection from harmful and dangerous substances. When applied directly to the human body, cosmetics may contain chemicals that, if not properly regulated, might be extremely harmful to one's health. The Supreme Court has often ruled that the State has a constitutional duty to control and outlaw dangerous substances in order to protect the public's health and that health is an essential part of existence.

[20] Advert. Standards Council of India, *ASCI Code for Self-Regulation in Advertising* (2021

[21] Hindustan Unilever Ltd v. Emami Ltd., Bombay High court, July 6,2020, available at - https://indiankanoon.org/doc/13793632/

[22] Dr. Batras Positive Health Clinic Pvt Ltd. v. Master Harjot Singh, First Appeal No.217 (2013),available at - https://indiankanoon.org/doc/157599954/

A person's right to life with dignity and good health is directly threatened by unsafe, poisonous, or subpar cosmetic items that include hazardous or carcinogenic ingredients. Therefore, by guaranteeing the safety, quality, and non-toxicity of cosmetic items, the Drugs and Cosmetics Act, 1940 plays a crucial part in satisfying Article 21. The Constitution's responsibility to safeguard life, health, and a healthy environment clearly encompasses the regulation of cosmetics, even though it makes no mention of them.

5.4 Right to Privacy and bodily Autonomy

The Supreme Court acknowledged the right to privacy, which includes bodily autonomy, personal choice, and self-expression, as a fundamental right under Article 21 in Justice K.S. Puttaswamy (Retd.) v. Union of India. Therefore, decisions about the use or non-use of cosmetic items, beauty treatments, or cosmetic operations are protected as private, intimate choices about one's identity and body. Any limitations on these options must pass the proportionality, rationality, and justifiable state interest tests. Although people have control over their bodies, the government is nonetheless able to control cosmetics for the sake of public health and safety. By guaranteeing safe and informed decisions, such legislation enhances autonomy rather than infringing on privacy. Therefore, the use of cosmetics falls within the area of personal liberty that is protected by the constitution, subject to reasonable restriction for the benefit of the public.

6. Isues and challenges –

A. Outdated legislative framework: Modern cosmetic goods like cosmeceuticals, nano-formulations, and hormone-active chemicals are not sufficiently regulated under the Drugs and Cosmetics Act, 1940.

B. Ambiguous product classification: When pharmaceuticals and cosmetics are not clearly distinguished from one another, potentially dangerous products can avoid strict safety inspection, which raises Article 14 concerns.

C. Weak safety oversight: The right to health under Article 21 is compromised by the lack of a strong cosmetovigilance system and required pre-market safety testing.

D. Inadequate **labelling and transparency:** Inadequate ingredient disclosure violates Articles 19(1)(a) and 21 by limiting informed choice and physical liberty.

E. Deceptive advertising: Unrealistic beauty claims have a negative impact on equality, dignity, and mental health, especially for women and teenagers.

F. Uneven enforcement: In violation of Article 14, state-by-state differences in regulatory enforcement lead to unequal consumer protection.

G. Online and fake cosmetics: Consumers are exposed to dangerous and unapproved products due to lax regulation of e-commerce platforms.

H. Environmental impact: According to Articles 21 and 51A(g), micro plastics and chemical waste from cosmetics provide hazards to the environment and public health.

7. Recommendations –

a. Modernisation of Cosmetic Laws: The Drugs and Cosmetics Act of 1940 should be amended to reflect modern cosmetic research, including the regulation of hormone-active products, cosmeceuticals, nano-formulations, and cutting-edge beauty technology.

b. Clear Product Classification Framework: To avoid confusion between medications and cosmetics and to guarantee risk-based regulation in accordance with Article 14, a distinct statutory category for cosmeceuticals should be

c. Mandatory Pre-Market Safety Assessment: To protect the right to health under Article 21, cosmetic items must undergo toxicological and scientific safety testing before being approved for sale.

d. The creation of a national system for cosmetovigilance

To ensure ongoing post-market surveillance and consumer safety, establish a centralised, required reporting system for adverse cosmetic responses.

e. Improved Labelling and Transparency Guidelines:

In order to improve informed choice, Articles 19(1)(a) and 21 require full ingredient disclosure, concentration levels of hazardous compounds, allergen warnings, and nano-ingredient labelling**.**

f. Strict Regulation of Cosmetic Advertising: In accordance with the values of equality and dignity, enforce legally binding rules against deceptive, inflated, or discriminating beauty promises, especially those that promote colourism or unrealistic body norms**.**

g. Uniform Enforcement Across States: To fulfil Article 14 commitments, improve coordination between Central and State authorities to assure uniform enforcement and equal consumer protection across the country.

h. Protection of Vulnerable Groups: Stricter safety regulations and targeted warnings should be implemented to provide extra protections for children, teenagers, pregnant women, and other vulnerable groups.

i. Environmental Sustainability Measures: In accordance with Article 21 and Article 51A(g), include environmental concerns into cosmetic regulation by limiting micro plastics, hazardous waste, and ecologically dangerous ingredients.

j. Public Awareness and Consumer Education: To improve significant autonomy and well-informed decision-making, support national awareness initiatives on ingredient literacy, cosmetic safety, and consumer rights.

K. Judicial and Policy Engagement: To close regulatory loopholes and uphold cosmetic safety as a fundamental rights problem, promote constitutional litigation, policy review, and judicial guidelines.

8. Conclusion –

This essay has shown how the constitutional framework, specifically the rights to life, health, dignity, privacy, and bodily autonomy under Article 21, equality under Article 14, and the right to information under Article 19(1)(a), is inextricably linked to the regulation of cosmetics in India. Despite not being specifically addressed in the Constitution, cosmetics are clearly protected by it due to their impact on human health and autonomy.

The right to life is violated by exposure to dangerous substances and insufficient health precautions, according to judicial interpretation. In this situation, the quality and safety of cosmetics become constitutional issues rather than just legal ones. Simultaneously, the acknowledgement of privacy and bodily autonomy affirms that individual decisions about appearance and cosmetic use are safeguarded, subject only to acceptable limitations in the public health interest.

According to the analysis, the current regulatory framework under the Cosmetics Rules, 2020 and the Drugs and Cosmetics Act, 1940 is still insufficient to handle contemporary cosmetic concerns. The effective realisation of constitutional rights is hampered by regulatory gaps, lax enforcement, and a lack of openness.

In the end, cosmetic regulation needs to develop into a rights-based framework based on public health imperatives, scientific advancements, and constitutional principles. To guarantee that human autonomy, dignity, and health are genuinely safeguarded in an increasingly complex cosmetic economy, cosmetic governance must be in line with constitutional values.