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Coronavirus Lockdown upon Human Rights

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“Sometimes it takes a natural disaster to reveal a social disaster”- Jim Wallis

ABSTRACT

The present piece of work deals with the impact of the global pandemic COVID 19 on the bonds of family relations. Family love and care forms an intrinsic part of human rights for every individual recognised under various international instruments and by the Indian Judiciary as well. The purpose of this work is to unveil one such aspect of pandemic crisis and national lockdown that is left untouched by the Indian media and national officials. In order to carry out a deep analysis of the topic various journals, articles and news papers have been made as sources of study. Also, books on human rights have been referred for general understanding.

I. INTRODUCTION

The International Health Organization WHO has taken cognizance of cluster of pneumonia medical failure in Wuhan (China) which lead to the discovery of COVID-19. The constant multiplication of this virus has now spread around all around the world.²

This virus caused global pandemic is an alarming situation for the most nations trying to test the resilience of the people. This extraordinary situation brings majority focus on Human Rights issues in and around India. International Human Rights standards provide an important framework and set of guidelines that will strengthen the people often left behind, such as the people with disabilities, migrants and refugees, people in conflict zones and people internally displaced. In *Olga Tellis v. Bombay Municipal Corporation*³, popularly known as the “Pavement Dwellers Case” Supreme Court has held “that ‘right to livelihood’ was borne out of the ‘right to life’, as no person can live without the means of living, that is, the means of Livelihood.” It is necessary that all rights of people is granted along with public health services and tests conducted for the virus which must be made available without any

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² *Coronavirus disease (COVID-19) Weekly Epidemiological Update and Weekly Operational Update*, World Health Organization (last visited September 10, 2020) <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports>

³ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

discrimination of any kind. The information for care and protection must be given with utmost accuracy in order to prevent any kind of spread of this virus. This accurate information regarding provision of food, water and sanitation will inculcate a state of trust, hope and help in controlling the stigma, discrimination, fear of missing out and xenophobic beliefs from the society.

II. HUMAN RIGHTS VIOLATION TESTED POSITIVE OF COVID-19

Certain restriction on the basic Human Rights of an individual is however acceptable. Such as the “freedom of movement”, “freedom of expression” or “freedom of peaceful assembly” may be subjected to be restricted considering the public health reasons⁴ as the virus is said to spread in a situation where social distancing is not maintained. However this must be very clearly an implication by the purview of law and must meet the basic requirements such as⁵:

- Legality: The restriction must be provided by its State In-charge for such decisions. This must not be arbitrary or inaccessible in nature.
- Necessity: The restriction is checked for “necessity” for prevention from conflict zones or contaminated zones. The marking of different zone sis necessary to understand the safe spots in the country.
- Proportionality: The need for implication for such restriction must be proportionate to the necessary actions taken and must be fulfilling the duty of protection of the public in general from such an extraordinary condition.
- Non- discrimination: No restriction shall be allowed to treat any set of people any indifferent from the others or deny the basic needs.

In the case of *Maneka Gandhi v. Union of India*⁶, the court has “explained the scope of ‘life’ and ‘personal liberty’ under Article 21 of The Indian Constitution.” The Supreme Court in this case has also interpreted that the Article 21 guarantees the protection of life and liberty under any circumstance; hence drawing relevance Epidemic and Disaster Management Act, 1985⁷ the Right to Rescue, Relief and Rehabilitation is a considered to be a fundamental right under the constitution of India.

⁴Covid 19 and its Human Rights Dimensions (last visited on September 10, 2020) <https://www.ohchr.org/EN/NewsEvents/Pages/COVID-19.aspx>

⁵INDIAN CONSTI. art 21.

⁶ *Maneka Gandhi v. Union of India* (1978) 1 SCC 248

⁷ Epidemic and Disaster Management Act, 1985

III. NATIONAL LOCKDOWN: A NECESSARY EVIL

One of the basic question that arises in the minds of the people that why do we need the Nation wide Lockdown when it attacks the basic human rights of the country people? It is because of this rigorous lockdown students, migrant workers, students and many more people are stranded at different places. Maharashtra and Gujrat has reported a wide level of violent protest agitated by the migrant workers where they are demanding to provide them with transportation facilities to go back to their native places. Thousands of students and migrant workers are stranded in the different cities of the country away from their native places with the renting facilities in hostels and rooms. When all the businesses got shut during the lockdown, the students are facing a huge financial crisis since they doesn't have source of income for themselves. For the purpose of public health and duty of the government towards the safety of its people, a nation wide lockdown came into force.

Since, Right to Health has been accepted as a basis fundamental right of the citizen, the state have a duty to safeguard the health of the people by providing affordable health facilities for all. Quality of the health facilities cannot be sacrificed in the time of pandemic also. Various state governments has made efforts to bring back its migrant labourers and students by some means od transport. In Maharashtra, nearly 16.5 lakh workers are living in shelters provided by their employers, while 14.3 lakh migrant workers have been provided shelter in close to 38,000 camps built by states and NGOs. Also, 1.34 crore people got access to free food distributed through 26,000 food camps throughout the country by various organizations with the help of government.⁸In the city of dreams Kota, more than 1800 students get struck in the hostels and rooms for more than six weeks where they have to pay their rent. The government of Maharashtra bring all of them back by arranging buses as per the Covid-19 protocols.⁹

IV. DEHUMANIZATION OF HUMAN RIGHTS AMID CORONAVIRUS

The Government of India is facing a grave and massive challenge to protect over a billion people. On the 24th of March' 2020 the government announced a nationwide lockdown¹⁰ for a period of three-weeks mainly to contain and curb the spread of "coronavirus" in the country. The government made that announcement with very minimal time in hand to make necessary

⁸. DeeptimanTiwary, Covid-19 lockdown: Centre allows inter-state movement of stranded migrant workers, others, but in buses, New Delhi, April 29, 2020 10:15:55 pm <https://indianexpress.com/article/india/coronavirus-covid-19-india-lockdown-inter-state-movement-stranded-migrant-workers6384856/>.

⁹. Shreya Bhandary, Back from Rajasthan, students from Maharashtra recount lockdown experiences, Mumbai, May 05, 2020 10:54 IST. <https://www.hindustantimes.com/mumbai-news/back-from-rajasthan-students-from-maharashtra-recount-lockdown-experiences/story-zUy1yUTN2tNHqL3m1Zme4L.html>.

¹⁰CNBC, PM order, March, 2020, available at <https://www.cnbc.com/2020/03/24/coronavirus-indias-prime-minister-orders-nationwide-lockdown.html>

arrangements and left the general public unprepared and in a fix.

India being a state party to The International Covenant on Civil and Political Rights (“ICCPR”) follows the rights offered by it in case of such extraordinary situation. Article 12¹¹ of the ICCPR protects the ‘Right to liberty of movement’ and it can be only restricted under the provision of law.

RIGHT TO FREE MOVEMENT

Lockdown and nation-wide ‘bandh’ has heavily impacted on certain groups and communities due to their sudden loss of livelihood, lack of food, shelter, and access to other daily requirements. Many migrants during this period were left without the access to any kind of public transport and were left stranded in their work town. Unaware of the seriousness of this pandemic, the migrants decided to walk back to their hometowns. The tightened security of each state resorted to police brutality in order to restrict the movement of these migrants causing several deaths.¹²

The fear of surviving the pandemic outweighed the fear of surviving during lockdown while being stuck away from home. However, few relief measures have been initiated for the millions inclusive of people suddenly out-of-work, daily wage earner and migrant workers who were left aground and helpless. The decision to close and shut down the state border travels has also disrupted the entire supply chain of goods and essentials causing lack of resources and hiked prices of essentials leading the economy go downhill.

PROTECTION FOR FRONTLINE WARRIORS

Health Care workers, doctors, nurses and pharmacies have been functioning day in and day out ever since the first case of coronavirus was detected in India. The government hospitals are flooded with patients and doctors are working continuously. However, it is very sad to notice that many health centres are not functioning or not fully equipped for immediate first aid treatment. It is mandatory for the doctors to be completely covered with necessary virus proof masks and personal protection equipment’s but it is a shame to note that most of the medical facilities are short of these equipment’s. The government nevertheless trying to produce these equipment’s but with the lockdown and unavailability of workers, it has become an arduous task to do so. Latest report show that more than 50 doctors have been tested positive for coronavirus.¹³

¹¹The International Covenant on Civil and Political Rights, Article 12.

¹² Supra note 3.

¹³Supra Note 3.

RIGHT TO PRIVACY

Consecrated in article 17 of the ICCPR; Right to privacy has also been enshrined as a basic fundamental right under the Constitution of India.¹⁴ It came to us as a shock when recently; a “confidential” list with the personal details of almost 700 plus passengers travelling to Delhi was leaked and distributed on WhatsApp and Facebook. The lack of confidentiality has proved that the citizens need to be more cautious with the government initiated mobile phone application “AarogyaSetu”. It is said that the idea behind the app is to collect the details of all the citizens of the country. However, it is not a mandate to download the application but considering the information the application is said to provide i.e. the details of any individual who is or was tested for COVID-19, the government has strongly encouraged the usage for it. This has been acknowledged as an opportunity to mass surveillance the people of the country. It has been observed that right to privacy has been negligently handled during the times of this pandemic considering the fact that most people have been working from home and relying on only online sources of information for any kind of updates by the Government.

V. CONCLUDING REMARKS

Every country is currently tackling the pandemic in its own way, but it is important to pause and ponder that “Isn’t it funny how it had to take a pandemic to remind us to reconnect with our world like never before?” It has slowed us down to such an extent that now; we discover cobwebs that have always been dwelling quietly within the corners of our lives. It has made us look at certain people with helplessness and empathy, the ones who always were there, right in front of our eyes but we failed to notice them. “Echoing concerns of suspension of human rights in several countries during lockdown, AntónioGuterres has warned that coronavirus pandemic must not be used as a pretext for authoritarian states to trample over individual human rights or repress the free flow of information.”

This global pandemic has definitely reminded us to reconcile with those who always mattered to us but we presumably had no time for them. It is time to replace “Cause and Effect” with “Pause and Reflect” to not let any disaster to ‘Lockdown Human Rights’.

¹⁴Suhasini Haidar, *Concerns over privacy as details of air travellers are leaked online*(lasted visited on September 10, 2020) <https://www.thehindu.com/news/national/govt-departments-pass-the-buck-as-list-of-722-air-passengers-is-leaked-online/article31186276.ece>