



**MULTI-FACETED IMPACT OF EPIDEMICS ON HUMAN RIGHTS**

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**RESEARCH QUESTIONS**

1. How does the government as natural leader, in times of a crisis, operate to keep the nation afloat?
2. Whether public health emergencies override an individual’s right to privacy?
3. Whether media is infringing people’s rights and privacy?
4. Whether the steps taken by the legislature and the government with regards to media and privacy are in the right direction?
5. How interrelated are human rights and pandemics and how is India’s response to the Covid-19 with regards to Human Rights?
6. Whether the international mechanisms to deal with pandemics are adequate?
7. Whether the international community’s response to the COVID-19 outbreak has been proportional?

**RESEARCH OBJECTIVES**

1. To understand the relevance and significance of cooperation and coordination between the government and various organisations in maintaining and sustaining the economy in times of a pandemic.
2. To examine the degree to which government has a right over personal data during a public health crisis.
3. To ascertain whether media is infringing on the rights of the people and their privacy.
4. To critically analyse whether the steps taken by the legislature and the government with regards to media and privacy are adequate and bona fide.

5. To understand the human rights aspect to pandemic responses and analyse the present scenario.
6. To understand whether the international mechanisms in place to mitigate or adapt during pandemics is effective.
7. To ascertain whether the international community’s response to the COVID-19 outbreak has been proportional and effective.

**LITERATURE REVIEW**

For this research, extensive reading of several articles and reports was done which laid the base for the hypothesis of this research, as the methodology used was a Non-doctrinal one, the articles that ranged from the journals of communication and management to the Cambridge quarterly healthcare ethics, as it was quintessential to cover all aspects, most importantly the timely reports by the WHO and the United Nations. People may perceive privacy to be a static concept, yet it is seen to differ from time to time, culture to culture, society to society, as seen in Adrienn Lucas’s article on Privacy. Yet, Durga Das Basu talks about the dimension of privacy as a legal right in the Constitution of India, in his book, Introduction to the Constitution of India, 1950. Since the interpretation of privacy as a legal right in countries like India gives us an idea as to what extent can we claim it as our legal right the Constitution of India, 1950 gives us an insight into the same. This understanding is then coupled by an understanding of how much Personal Data exposure, is considered invasive, as scrutinized in Surith Parthasarathy’s article, Privacy in a Public Health Crisis.

All the articles, reports and commentaries have aided the research for this paper.

**ABSTRACT**



A pandemic like COVID-19 comes with a set of challenges like no other. In a prolonged scenario of blatant chaos, misery, scarcity and unfamiliarity, it all comes down to appropriate response and measures taken to stop mankind and the economy from falling to destruction. This paper sheds light on various aspects affected by a pandemic like no other where the resilience of the government is tested to prevent the collapse of a nation. The issue of privacy during a pandemic is dealt with, with regards to the line between public and private good. The importance of media and its role in challenging times is addressed along with several other aspects like information reliability, and spreading awareness when the nation ceases activities and operations. Besides this, the upholding of human rights when nations are probed by a challenging pandemic is thoroughly discussed. In addition to this, the response and effectiveness of the international community, backed by the support of organizations like the WHO is addressed, along a discussion on the loopholes that exist in the pandemic response system.

All in all, this paper is a thorough discussion on the multifaceted impact of fusion of pandemics on nations, governments, economies, fundamental human rights and mankind.

Keywords: pandemic, COVID-19, human rights, government, international.

## CHAPTER I: ADMINISTRATIVE RESPONSIBILITIES

We are all living in a time like never before where a global pandemic is testing the abilities and resilience of mankind. For public health administrators and national governments all over the world, their manner and measures for handling this novel crisis will not only prove critical for their legacy but also for damage control in many aspects. Irrespective of what stage a nation is on the global level, it is clear that the pandemic preparedness and readiness of each administrative state will ultimately determine how the pandemic was dealt with, how it was curtailed and how the possible deaths of thousands was prevented. The government's role and duty as the protector of its citizens makes them responsible for how they react and deal with the ongoing pandemic crisis at every stage<sup>1</sup>.

When the first case of COVID-19 was reported in Wuhan, China in late 2019, no nation's government, public administration bodies or healthcare systems predicted devastation of this scale. It was a studied prediction that the next big thing that would result in the death of thousands around the world wouldn't be a world war but a disease. No nation is prepared to sustain its health as well as its economy without damage. What ultimately matters is the amount of damage control, curtailing of the spread of the disease and the consequent deaths, owing to the measures of the administrative state.

On the advice and protocols issued by doctor, virologists and health organizations, national governments have called for lockdowns on economic and social activities involving travel and physical interaction to curb the

<sup>1</sup> Nathan Teklemariam, *The role of the administrative state in times of a possible pandemic*, PA TIMES (Mar

8, 2020), <https://patimes.org/the-role-of-the-administrative-state-in-times-of-a-possible-pandemic/>



spread of the disease. Personal hygiene, cleanliness, taking adequate precautions like wearing a mask, avoiding touching the face, and implementing social distancing are few of the common measures adopted by governments and people all around the world. The safety and good health of the citizens is of paramount importance. However, the government and administrative bodies being responsible for the overall functioning of a nation cannot ignore other factors and aspects being affected because of this disastrous pandemic. The abilities of the limited healthcare systems to meet the challenges posed by this pandemic, the economic status of the nation, the livelihood of millions of daily wage workers, labourers, pensioners and other sectors of the society, the functioning and survival of businesses, supply of essentials, production and supply of medical supplies and machinery for doctors and medical staff are few of the many responsibilities of the national government as the natural leader of a nation in a time of crisis. The ability of a government to assure its citizens of these above mentioned needs and further essentials is what ultimately determines its pandemic readiness and preparedness.

The Indian government like many others has implemented certain measures to curtail the pandemic and mitigate its devastating consequences and effects. As natural leader of the nation, it is the government's responsibility to enact policies and legislations to optimize pandemic preparedness, technical support and capacity development across all sectors<sup>2</sup>. It is the government's duty to ensure responsibility and sincere efforts on the part of the citizens

by ensuring they act as per the guidelines given by organizations like the WHO in order to curtail the spread of the virus. Circulation of correct, bias free information, providing support and assistance to healthcare workers and doctors, ensuring that the pandemic fear doesn't give way to acts of racism or other acts of hatred or politics, etc., are all issues that require the government, especially in a country like India, ought to control and monitor. Since various organizations and institutes are still working towards making a vaccine that ensures immunity from this disease, it is the duty and responsibility of the government and the citizens to work together in cooperation to help buy more time for all those in the front lines of this fight against the pandemic.

At the moment, the number of confirmed coronavirus cases worldwide is above to 1,900,000. Even the best healthcare systems in the world aren't equipped to meet the worst this virus. Countries like Italy, Spain and the USA where the disease has hit with particular cruelty, with several European countries witnessing a surge in the number of cases. The unprecedented and ongoing nature of this virus has created panic even amongst the most well-equipped and capable nations. Social media and networks are flooded with stories, suggestions, precautions and news from all over the world, regarding what each nation is experiencing as a combined result of the pandemic and their government's response and measures adopted to tackle the consequent havoc.

Announcing nation-wide lockdowns, restricting travel, advising companies and

<sup>2</sup> WHO Global Influenza Programme & World Health Organization. *Pandemic influenza preparedness and response: a WHO guidance document*, WORLD

HEALTH ORGANIZATION (2009), <https://apps.who.int/iris/handle/10665/44123>



organizations to ask employees to work from home, shutting down of schools, colleges, public areas, religious assemblies and other recreational areas has helped control the spread of the virus and buy the science and medical community more time to find a suitable vaccine.

Community spread, lack and unavailability of test kits and shortage of ventilators are some of the grave concerns the governments all around the world need to address in order for the healthcare staff to treat the infected and prepare for the worst. The importance of knowledge and awareness about the virus and its spread is as crucial a weapon as any vaccine. For example, Iran, with more than 50,000 confirmed cases and more than 3,100 deaths is suspected of having underreported and delayed the revelation of the spread of coronavirus in their country<sup>3</sup>. This form of irresponsible behaviour on the part of a government is deplorable when the fate of mankind is at test.

An administrative state that curtails its role and investment in public health, preparedness for an environmental crisis and is misinforming or is not being transparent to its citizens of an existing crisis<sup>4</sup> is paving way for its own downfall and that of its citizens.

## CHAPTER II: CONSTITUTIONAL QUESTION OF PRIVACY IN THE PANDEMIC

<sup>3</sup> Praveen Duddu, *COVID-19 Coronavirus: Top ten most affected countries*, PHARMACEUTICAL TECHNOLOGY (Apr 2, 2020), <https://www.pharmaceutical-technology.com/features/covid-19-coronavirus-top-ten-most-affected-countries/>

<sup>4</sup> *Supra* note 1.

<sup>5</sup> Adrienn Lukacs, *What is Privacy? The history and definition of privacy*, UNIVERSITY OF SZEGED 256 (2016)

### PRIVACY AS A CONCEPT

Privacy in its most basic sense, is “the right to be let alone”. Although it is widely acknowledged and in stricter sense, is an evolving concept and not static in nature, it has come to be a fundamental human right in developed societies. Legal systems ensure the protection of this very right, yet there is no common consensus on what the true meaning or privacy is, and what herein, is sought to be protected. Most of these definitions that were inevitably derived upon, highlighted just an aspect or element of the broad concept of Privacy. What is to be considered as private has differed with eras, societies and individuals.<sup>5</sup>

### CONSTITUTIONAL NOTION OF PRIVACY

The right of privacy is derived from Article 21 of the Constitution of India.<sup>6</sup> Since the Constitution of India, has no elaborate guidelines for ensuring Privacy, its evolvement and understanding stems from a multitude of cases in the courts of law.

The Law also propounds that this very right can be restricted by procedure established by law provided the reasoning behind it is just, fair and reasonable.<sup>7</sup> Constitutionally, there is also an interplay of Article 19(2) of the Constitution.<sup>8</sup> This clause imposes reasonable restrictions in lieu of imposing social control, wherein the Supreme Court

<sup>6</sup> DR. DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA, 124 (21<sup>st</sup> ed., 2013)

<sup>7</sup> *Maneka Gandhi v. Union of India*, 1978 AIR 597

<sup>8</sup> INDIA CONST. art. 19 cl. 2

“(2) Nothing in sub clause (a) of clause ( 1 ) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the



has stated that the restriction should strike a perfect balance between the Individual and Society. It states:

*“The nature of the right alleged to have been infringed, the underlying purpose of the restriction so imposed, the extent and urgency of the evil sought to be remedied thereby, the disproportion of imposition of the prevailing times should all enter into judicial verdict.”<sup>9</sup>*

This elucidates that the government is expected to, in accordance with an Advisory Board to review the materials based on which a government seeks to override a particular freedom which includes not curtailing the right to freedom of association except during emergent or extraordinary circumstances.<sup>10</sup> Thus the Right to Privacy can be restricted if there is a compelling state interest to be served.<sup>11</sup>

In the issue at hand, the Puttaswamy case is important since it reiterates the following principle:

*“any infringement of a right to privacy by the government must be reasonable and proportionate, wherein the following conditions are met : the restriction in the right to privacy must be effected through a*

interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.”

<sup>9</sup> State of Madras v. Row, (1952) SCR 597 (607); Laxmi v State of U.P., AIR 1981 SC 873. (This proposition is now to be read subject to the exceptions under Arts. 31B, 31C.)

<sup>10</sup> Bhadrappa v. Tolacha Naik, (2008) 2 SCC 104 (107)

<sup>11</sup> Gopalan v State of MP, 1954 AIR 362 1954 SCR 168, Ind.

<sup>12</sup> K.S Puttaswamy v. Union of India, Writ Petition (Civil) No. 494 of 2012,

*law which pursues a legitimate state aim, has a reasonable nexus between the objects and means to achieve them, and is the least intrusive means to achieve the state aim”<sup>12</sup>*

### PRIVACY AND THE PANDEMIC

The Covid-19 Pandemic, has brought into picture the concept of Health Privacy. In a quest to swiftly identify and isolate potentially infected people, countries are using means and measures that may be considered as invasive and illegitimate.<sup>13</sup> While phone tracking devices are being used in countries like China and Israel, to monitor the movement of those either infected by the virus or likely to have contracted it, EU has urged telecom operators to share anonymised mobile data to track the spread of the virus and provide the required medical aid and supplies.<sup>14</sup> When it comes to India, it seems to have become a specimen of erosion of privacy. While India has aimed to draw inferences from countries like China, Singapore and South Korea, who have, by means of close tracking and isolation, effectively limited the death toll, India's efforts have just been a series of blunders.<sup>15</sup> The State of Karnataka for instance, published on a database, 14,000 people's

Personal Data Protection was recognized as falling under the Right to Privacy

<sup>13</sup> Suhrith Parthasarathy, *Coronavirus and The Constitution – IV: Privacy In A Public Health Crisis*, LIVELAW (Apr 5, 2020, 8:51AM IST), <https://www.livelaw.in/columns/coronavirus-and-the-constitution-iv-privacy-in-a-public-health-crisis-154801>

<sup>14</sup> *Supra* note 13.

<sup>15</sup> Casey Ross, *After 9/11, we gave up privacy for security. Will we make the same trade-off after Covid-19?*, STATNEWS (Apr 8, 2020), <https://www.statnews.com/2020/04/08/coronavirus-will-we-give-up-privacy-for-security/>



personal details including their residential address, travel history, which further reached people on WhatsApp, making the information easily accessible and tweakable, to spread fake news. The question that arises is, whether one should waive our civil liberties in the perceived interest of public health.<sup>16</sup> The Ministry of Electronics and Information Technology on 14<sup>th</sup> of April, 2020, launched the Aarogya Setu Application, which geo-traces user location and informs them if they have come in contact with an infected person. Travel data from railways and airlines as well as tracking hand stamped people is also being carried out by the Indian government. These measures, although invasive, work well towards limiting the spread of the virus, especially from Quarantine Jumping. Yet the state governments have performed their parts miserably, by having used telephone records, mobile phone GPS systems, and have made names and personal addresses of suspects public through local newspapers and official websites. The Personal Data Protection Bill, tabled in the year 2019, comprises of certain Clause 12 including guidelines about using personal data during a health emergency. This bill incorporates certain safeguards such as grievance redressal mechanisms or erasure of data mechanisms etc, yet the ultimate say of using it nevertheless or not stands with the government.

In summation of the abovementioned, it can be so understood, that although the Right to Privacy is a basic human right, also enshrined

in our Constitution, yet it is subject to curtailment upon the discretion of the state and its limbs. In other words, the right is not an absolute one. The State interest and the Individual Interest must go hand in hand, which in this case results from the eradication of the virus through multiple measures. So, in terms of privacy, the information of the public must be disclosed only as much as necessary and proportional to the requirement and exigency at hand. During a public health emergency like this, it is a compelling justification for sacrificing an individual's right to privacy. The choice between public and private health has an obvious answer.<sup>17</sup> Yet, this oversignification of declaring this issue and the question of privacy cannot be an either-or choice. No right of a citizen should be completely sacrificed, and it is important to not disproportionately infringe the rights of citizens.<sup>18</sup>

### CHAPTER III: MASS MEDIA AND THE PANDEMIC

The media in terms of either mass media, social media or even the Press itself plays a large role in our day to day life, as its primary objective is to provide information on the current happenings of the world, and that is one aspect that is extremely integral during testing times and can even be termed as a tool that is powerful<sup>19</sup>

Studies have shown that a vast majority of people rely on the news and view it at an

<sup>16</sup> *Supra* note 9.

<sup>17</sup> Nikhil Pratap & Kashish Aneja, *1.3 billion people. One virus. How much Privacy?*, THE WIRE (Mar 30, 2020), <https://thewire.in/government/covid-19-pandemic-privacy-india>

<sup>18</sup> *Id.*

<sup>19</sup> Sahu Gopal Krishna & Ahmad Afaq, *News Media Coverage on Human Rights Issues: Comparative Analysis of the Times of India and the Hindu*, 8 JOURNAL OF KNOWLEDGE & COMMUNICATION MANAGEMENT 149 (2018)



average of 24 hours a week<sup>20</sup> and especially during the current times of the global pandemic people are seen to rely on the media for any source of information, as parts of the world and all of India has been on a lock down. In India, it has been reported that it is a leading market for social media usage, especially Whatsapp, as the number of users as of three years ago were over.<sup>21</sup>

### EFFECTS OF MISINFORMATION AT A GLOBAL LEVEL

The relationship between mass media and the pandemic is mutual and yet multifaceted,<sup>22</sup> the upside being that people are well informed about the current scenario with regards to the case count or even the development regarding vaccines, however the down side happens to be the rumors regarding possible cures, the misinformation and the publicity of the personal details of patients. It is observed that these downsides have infringed the basic Human Rights of the public at large directly as well as Indirectly, in an Instance at the Global level where there was rumors with respect to a lockdown had been fuelled in the United states, it caused a massive outbreak of panic buying which led

to multiple casualties as well as deprivation of basic needs for a majority of people<sup>23</sup>, There were multiple casualty cases regarding overdose of a drug in Nigeria where due to the false information that *Chloroquine* helped battle Covid-19<sup>24</sup>.

These are the Global Instances that have infringed rights indirectly however, in a direct approach to India, the issues battled are false information on social media applications<sup>25</sup> which include name, religion, Caste of people that are not required to be disclosed and further the Patient tracking apps.

### VIOLATION OF RIGHTS OF PEOPLE BY MEDIA IN INDIA

The rapid spread of the false news has been used as a tool to induce fear in the common man as well in light of recent events, publicly degrade a religion. Though the constitution has made provisions vide Articles 14 and 15, which are fundamental rights vested on all citizens, where it is said that the State shall not discriminate any citizen on ground of religion, race, caste, sex, place of birth, and the term discriminate refers to not distinguishing unfavorably, the media has

<sup>20</sup> Stefan Hall & Cathy Li, *COVID-19 proves that media's value is growing – but we need to find better ways to measure it*, WORLD ECONOMIC FORUM (Apr 2, 2020), <https://www.weforum.org/agenda/2020/04/covid-19-media-value/>

<sup>21</sup> Kunal Purohit, *Misinformation, fake news spark India coronavirus fears*, ALJAZEERA (Mar 10, 2020), <https://www.aljazeera.com/news/2020/03/misinformation-fake-news-spark-india-coronavirus-fears-200309051731540.html>

<sup>22</sup> Weike Zhou, Aili Wang, Fan Xia, Yanni Xiao, Sanyi Tang, *Effects of media reporting on mitigating spread of COVID-19 in the early phase of the outbreak*, MATHEMATICAL BIOSCIENCES AND ENGINEERING 2693-2707 (2020)

<sup>23</sup> Samia Tasnim, Md Mahub Hossain, Hoimonty Mazumder, *Impact of rumors or misinformation on coronavirus disease (COVID-19) in social media*, SOCARXIV (Mar 29, 2020), [osf.io/preprints/socarxiv/uf3zn](https://osf.io/preprints/socarxiv/uf3zn)

<sup>24</sup> Busari S, Adebayo B. *Nigeria records chloroquine poisoning after Trump endorses it for coronavirus treatment*, CNN (Mar 23, 2020), <https://www.cnn.com/2020/03/23/africa/chloroquine-trump-nigeria-intl/index.html>.

<sup>25</sup> Nayar, K Rajasekharan and Sadasivan, Lal and Shaffi, Muhammed and Vijayan, Bindhya and P Rao, Arathi, *Social Media Messages Related to COVID-19: A Content Analysis* (March 25, 2020). Available at SSRN: <https://ssrn.com/abstract=3560666> or <http://dx.doi.org/10.2139/ssrn.3560666>



been wielded as a power tool while reporting positive cases and connecting them to the recent gathering known as Tablighi Jamaat, as the event has been attached to every report of positive cases of people who have attended the aforementioned event however in reporting other cases there have been no such tags made or nexus drawn to their whereabouts while contracting the virus. This leads to a serious discrimination as well as a gross infringement of basic Human Rights.<sup>26</sup> This has also adverse effect, by sidelining the actual news, with regards to the requirement for testing kits, equipment, and other socio-economic issues which needed to be covered.

#### STEPS TAKEN BY THE GOVERNMENT INFRINGING MEDIA'S RIGHTS

The government however has not been proactive in setting right the infringements, but has merely tried to further infringe rights of the press as well by the recent Supreme Court mandate regarding restrictions<sup>27</sup> as these restrictions do not curb the discrimination but merely curbed the rights of the Press which has been vested by the Constitution under Article. 19(1), as the National Disaster Management Act, 2005 has been invoked, there is a provision under s.54<sup>28</sup> of the Act which categorizes the fuelling of fake news in order to create panic

as a crime and states that the offenders shall be punished, nonetheless the provision for the prosecution of false news by the media has been over-looked by the government, and now what can be published in only the official version of news which is vetted by the government.<sup>29</sup> Though the Supreme Court did not explicitly curb the Press, the government inferred it and imposed restrictions with regards to the Journalists who could attend briefings as well as question the Healthy Ministry officials<sup>30</sup> It has further been reported that during Press Conferences hosted by the Government, the questions of the Journalists are not answered unless the particular issue needs to be reported by the Government<sup>31</sup>

However, apart from the downside, Media or mass Media can be used as a tool to curb the transmission. This has been proven by formulating dynamic compartment model<sup>32</sup> There have even been research conducted on the mathematical models to correlate the media coverage and the spread of the virus, these can only be delved into or implemented if the Media and Press that have become mere tools that are infringing the rights of the common people as well as fuelling a religious divide and has created Panic mongering via fake news on social media.

<sup>26</sup> Vidya Krishnan, *Centre places restrictions on media in COVID press briefings; shifts focus to Tablighi Jamaat*, THE CARAVAN (Apr 6, 2020), <https://caravanmagazine.in/health/centre-places-restrictions-media-covid-press-briefings-shifts-focus-to-tablighi-jamaat>

<sup>27</sup> *Id.* at 8

<sup>28</sup> National Disaster Management Act, No. 53 of 2005, Acts of Parliament (2005)

“Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on

conviction, be punishable with imprisonment which may extend to one year or with fine”

<sup>29</sup> Unnati Sharma, *Is there a risk of Modi govt using Covid-19 to curb media and freedoms or is it necessary*, THE PRINT (Apr 1, 2020, 6:25PM IST), <https://theprint.in/talk-point/is-there-a-risk-of-modi-govt-using-covid-19-to-curb-media-and-freedoms-or-is-it-necessary/392926/>

<sup>30</sup> *Supra* note 26.

<sup>31</sup> *Id.* at 12.

<sup>32</sup> *Supra* note 22.



There have been measures taken by the major social media companies to ward off the fake news that is circulated on their domains like having a fact check done by a professional, however at the grassroots level, In India it is necessary that the implementation of the legislature that exists must take place rather than mere curbing or propagating a divide and infringing on Human Right of the people at large.

#### CHAPTER IV: HUMAN RIGHTS AND PANDEMICS

Human rights need to be the underlying factor that determines all decisions taken in the world. Basic human rights are universal, inalienable, indivisible, interdependent and essential to attain freedom, justice and peace for all.<sup>33</sup> With regards to pandemic outbreaks, human rights play a very important role. Bioethics form the backbone of successfully dealing with pandemics, and human rights should be considered as the lingua franca of bioethics.<sup>34</sup> One cannot work towards achieving public health without human rights, for the two are interlinked. International mandates and rules are plenty

with regards to human rights, and its importance can never be negated.

The Covid-19 has proven to be the biggest health concern among nations across the world. India has not been an exception. India has been thrust with the daunting task of ensuring the protection of 1.3 billion citizens of India. India's constitution has guaranteed various fundamental rights to its citizens that uphold the integral value of human life. The most important one is the Right To Life<sup>35</sup> which encompasses a multitude of things like the right to an adequate standard of living, the right to have housing, water, food and sanitation and the right to a clean environment. Apart from this it guarantees rights such as the Right To Freedom Of Expression<sup>36</sup>, the Right To Freedom Of Religion And Conscience<sup>37</sup> and the Right To Education<sup>38</sup>.

Though responses to a pandemic require the upholding of human rights, India has witnessed human right violations in various aspects during its fight against Covid-19.

The primary form of violation that has been observed is discrimination, that goes against Article 14<sup>39</sup>. It also goes against the

<sup>33</sup> *What Are Human Rights?*, AMNESTY INTERNATIONAL, INDIA (Apr.10<sup>th</sup>,2020, 15:44), <https://amnesty.org.in/about-us/what-are-human-rights/>

“Following the World War II, the Universal Declaration of Human Rights (UDHR) was born which is unarguably the single most important legislation in the world, at present. It guarantees basic rights to every citizen of the world and must shape policy making of all nations across the world. Apart from the UDHR, the UN has constantly remarked on human rights and laid down various mandates to be followed in situations, including pandemic outbreaks.”

<sup>34</sup> Elizabeth Fenton, John D. Arras, *Bioethics and Human Rights: Curb Your Enthusiasm*, 19 CAMBRIDGE QUARTERLY OF HEALTHCARE ETHICS, 128 (2010).

<sup>35</sup> INDIAN CONST. art. 21

<sup>36</sup> INDIAN CONST. art 19, cl.1, sub cl. a

<sup>37</sup> INDIAN CONST. art. 25

<sup>38</sup> INDIAN CONST. art. 21, cl.a

<sup>39</sup> INDIAN CONST. art. 14

“The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.”



international mandates on human rights during health crises.<sup>40</sup>

The first form of discrimination that is observable in India is discrimination based on religion. India has not been immune to communalism for time immemorial. The dark seeds of communalism have been sown in India since before the partition. Even during a virus outbreak, which requires the entire nation to act in unity, communism seeped into the narrative. India, being a primarily religious country, faced its biggest task in getting religious communities to practice lock downs and social distancing. Across the nation there were worrying cases across religious communities continuing to gather in large groups despite the lock down being effective since March 2020. A

particular incident, however, that was brought to the common man attention and extensively covered by the media was the gathering by the Tablighi Jammata, a sect of Muslims.

The nation faced a lot of difficulties post this gathering due to the large number of people who had assembled for the same. Now what was meant to be seen as a disregard to rules and irresponsible behaviour by individuals, came to be seen through a communal lens. The fact remains that the Tablighi Jammata was not the only religious community who disobeyed rules and regulations. There were also other religious communities that continued to gather in the places of offering despite the rules set out by the nation<sup>41</sup>. However, only this incident sparked

<sup>40</sup> *COVID-19: States Should Not Abuse Emergency Measures To Suppress Human Rights – UN Experts*, UNHR, April 11<sup>th</sup> 2020, 18:32, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25722>

“Emergency declarations based on the COVID-19 outbreak should not be used as a basis to target particular groups, minorities, or individuals. It should not function as a cover for repressive action under the guise of protecting health... and should not be used simply to quash dissent.” Governments should ensure that all healthcare services related to COVID-19 are provided without stigma and discrimination of any kind, including on the grounds of sexual orientation and gender identity, and should make clear through public messaging campaigns that everyone has the right to access health care.”

*Human Rights Dimensions of COVID-19 Response*, HUMAN RIGHTS WATCH (Apr 7, 2020, 18:23), <https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>

<sup>41</sup> *Coronavirus: Case against temples, mosques, churches for violating instructions*, KERALA KAUMADI, April 10<sup>th</sup> 2020, 15:43, <https://keralakaumudi.com/en/news/news.php?id=268336&u=coronavirus-case-against-temples-mosques-churches-for-violating-instructions>

*Devbhumi Dwarka collector violates government diktat on coronavirus scare*, GUJARAT EXCLUSIVE, (Apr 10<sup>th</sup> 2020, 18:24), <https://english.gujaratexclusive.in/devbhumi-dwarka-collector-violates-government-diktat-on-coronavirus-scare>

*Temple officials arrested for violating protocol*, NEW INDIAN EXPRESS (Apr 10<sup>th</sup> 2020, 15:35), <https://www.newindianexpress.com/cities/thiruvananthapuram/2020/mar/22/temple-officials-arrested-for-violating-protocol-2120102.html>

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*Coronavirus: Islamophobia concerns after India mosque outbreak*, BBC (April 10<sup>th</sup> 2020), 15:48 <https://www.bbc.com/news/world-asia-india-52147260>

*Rana Ayyub, Islamophobia Taints India's Response to the Coronavirus*, THE WASHINGTON POST (Apr



nationwide agitation and resulted in hatred against Muslims spreading like wildfire.<sup>42</sup> Unfortunately as a result, there was even reported case of a woman being denied treatment in a hospital owing to her being a Muslim which resulted in her losing her newborn child<sup>43</sup>. The fact that the Islamic community has been blamed for a majority of the crisis reflects India's discriminatory and communal attitude towards situations. The media has always used the prefix of Hindu or Muslim when reporting crimes or any important events, which has constantly engrained into people's minds the divide between the two communities. Apart from

communalism there have also been cases of xenophobia as well as racism in India. Owing to the fact that the virus was said to originate in china, various North-Eastern communities have been discriminated against for their features.<sup>44</sup>

The second form of discrimination that is being seen in India is economic or class inequality. One of one of India's primary concerns is its vast migrant workforce<sup>45</sup> which is facing the brunt of the lock down. Migrant workers were seen crowded at borders and stations during times that require social distancing<sup>46</sup>A large number of them

<sup>7th</sup> 2020, (18:43),  
<https://www.washingtonpost.com/opinions/2020/04/06/islamophobia-taints-indias-response-coronavirus/#click=https://t.co/qftAB3b6W>

<sup>42</sup>Id.

“The internet erupted with trending hashtags such as #coronajihad and fabricated videos that accused the Islamic Community of using the virus as a weapon to propagate their religion. Corona jihad became the idea that Muslims were weaponizing the virus to target Hindus. A minister of the BJP, even went to the extent of labelling the incident as a Talibani crime Furthermore even a popular news channel India Today, as well as a leading editor in the prominent website newslaundry held the Muslim group accountable for over 60% of the countries cases. The government even announced that a few members of the group would be charged under the National Security Act for violating the quarantine, which shows blatant discrimination on it's part, as other religious groups were not dealt with in a similar manner.”

<sup>43</sup> Deep Mukherjee, *Delivered In Ambulance, Newborn Dies, Father Says Hospital Drove Them Off For Being Muslim*, THE INDIAN EXPRESS (Apr 7<sup>th</sup> 2020, 18:41),  
<https://indianexpress.com/article/india/ambulance-muslims-hospital-refuses-newborn-dies-rajasthan6347766/>

<sup>44</sup> Neetha John, *Called 'Coronavirus', denied autos: North-East citizens face harassment across India*, THE NEWSMINUTE, (Apr 13<sup>th</sup> 2020, 19:07),

<https://www.thenewsminute.com/article/called-coronavirus-denied-autos-north-east-citizens-face-harassment-across-india-120738>

Priyanka Sahoo, *Coronavirus scare: North-east students at TISS allege racial discrimination*, HINDUSTAN TIMES (Apr 13<sup>th</sup> 2020, 19:08),  
<https://www.hindustantimes.com/mumbai-news/coronavirus-scare-north-east-students-at-tiss-allege-racial-discrimination/story-PHw5NG9IfsP0P8g6DVMgHJ.html>

<sup>45</sup> *Human Rights Dimensions of COVID-19 Response*, HUMAN RIGHTS WATCH (Apr 7, 2020,18:23),  
<https://www.hrw.org/news/2020/03/19/human-rights-dimensions-covid-19-response>

“Governments should take steps to create firewalls between healthcare providers and undocumented migrants to reassure vulnerable populations that they do not risk reprisal or deportation if they access lifesaving care, especially in the context of seeking testing or treatment for COVID-19.”

<sup>46</sup> Vijayta Lalwani, *Coronavirus: 'Why has Modi done this?' Rajasthan workers walk back home from Gujarat* SCROLL (Apr 11<sup>th</sup> 2020, 17:30),  
<https://scroll.in/article/957245/coronavirus-after-lockdown-migrant-workers-take-a-long-walk-home-from-gujarat-to-rajasthan>

“The migrants crowded at the borders and at inter-state bus stations presenting a frightening picture at a time social distancing



were attempting to return home. There were also incidents of the workforce facing unnecessary attacks by the police.<sup>47</sup> A particularly shocking incident was the spraying of disinfectants on labourers in an inhumane manner in Uttar Pradesh.<sup>48</sup> Migrant labourers, however, are only among the few members of the lower class who face discrimination. The poor, as a community, face the brunt of the virus. Slums and dwellings with people from the lower class witness an unequal access to resources, including water, which put most of the poor at the risk of diseases and catching the virus. 'Hunger and poverty will kill us first'<sup>49</sup> has been the common concern of all of India's poor.

## CHAPTER V: RESPONSE OF THE INTERNATIONAL COMMUNITY

### INTERNATIONAL MECHANISMS

The management of any public health emergency comes from a meticulous system

is crucial to prevent the rapid spread of coronavirus.”

<sup>47</sup> Shorbori Purkayastha, *Police Brutality: Citizens, Delivery Agents Harassed Amid Lockdown*, THE QUINT (Apr 11<sup>th</sup> 2020, 17:31), <https://www.thequint.com/news/india/police-harassing-citizens-delivery-agents-amid-covid-19-lockdown/>

<sup>48</sup> Alok Pandey, Swati Bhasin, *Bleach Sprayed On Migrants In U.P Over Covid-19, Kerala Uses Soap*, NDTV, (Apr 7<sup>th</sup> 2020, 18:49), <https://www.ndtv.com/india-news/coronavirus-india-lockdown-disinfectant-sprayed-on-migrants-on-return-to-up-shows-shocking-video-2202916>

<sup>49</sup> *India: COVID-19 Lockdown Puts Poor at Risk*, HUMAN RIGHTS WATCH (Apr 7, 2020, 5:35PM IST), <https://www.hrw.org/news/2020/03/27/india-covid-19-lockdown-puts-poor-risk>

Barkha Dutt, *As India goes into lockdown, fear spreads: 'Poverty may kill us first'*, WASHINGTON POST (Apr 7, 2020, 16:48), <https://www.washingtonpost.com/opinions/2020/03/2/>

of rules and regulations that must be followed. In cases of the emergency being of an international nature, it is imperative to have mechanisms in place to suit the needs of the people and their safeguard. The World Health Organisation (WHO) provides for the International Health Regulations (IHR), 2005. The rules under the IHR are applicable to all countries, and it bestows a certain obligation on the nations to ensure that they notify the WHO of any kind of event that would fall under the banner of a public health emergency.

The IHR lays down several such regulations in a meticulous step-by-step procedure to deal with such emergencies. This extends from the first step of notifying the WHO of a potential threat of such a situation<sup>50</sup>, of the role that the WHO must play in such circumstances, taking reports from other reliable sources<sup>51</sup>, and after due diligence,

<sup>50</sup> [india-goes-into-lockdown-fear-spreads-poverty-may-kill-us-first/](https://www.supremoamicus.org/india-goes-into-lockdown-fear-spreads-poverty-may-kill-us-first/)

<sup>51</sup> International Health Regulations (IHR) art. 6(2) (2005)

“2. Following a notification, a State Party shall continue to communicate to WHO timely, accurate and sufficiently detailed public health information available to it on the notified event, where possible including case definitions, laboratory results, source and type of the risk, number of cases and deaths, conditions affecting the spread of the disease and the health measures employed; and report, when necessary, the difficulties faced and support needed in responding to the potential public health emergency of international concern.”

<sup>51</sup> International Health Regulations (IHR) art. 9(1) (2005)

“1. WHO may take into account reports from sources other than notifications or consultations and shall assess these reports



verify the information <sup>52</sup> that they receive at the earliest possible opportunity. It also lays down, among other things, the kind of response that the WHO must provide to the State parties and various other intergovernmental and aiding organisations, <sup>53</sup> and in turn, the people of the countries. The IHR is quite comprehensive when it comes to the kind of treatment that is to be meted out to a case of a public health emergency.

### HISTORICAL PERSPECTIVE

These regulations have been brought to force in several historical outbreaks in the past. The IHR was brought to life from paper through

according to established epidemiological principles and then communicate information on the event to the State Party in whose territory the event is allegedly occurring. Before taking any action based on such reports, WHO shall consult with and attempt to obtain verification from the State Party in whose territory the event is allegedly occurring in accordance with the procedure set forth in Article 10. To this end, WHO shall make the information received available to the States Parties and only where it is duly justified may WHO maintain the confidentiality of the source. This information will be used in accordance with the procedure set forth in Article 11.”

<sup>52</sup> International Health Regulations (IHR) art. 10(1) (2005)

“1. WHO shall request, in accordance with Article 9, verification from a State Party of reports from sources other than notifications or consultations of events which may constitute a public health emergency of international concern allegedly occurring in the State’s territory. In such cases, WHO shall inform the State Party concerned regarding the reports it is seeking to verify.”

See also art. 12(1):

“1. The Director-General shall determine, on the basis of the information received, in particular from the State Party within whose territory an event is occurring, whether an event constitutes a public health emergency

the 2009 H1N1 pandemic, and this also tested how effective the regulations could be. <sup>54</sup> There was much conflict when it came to the overall pre-response tactics that must be followed when such an emergency does strike. It was also pointed out that the regulations, though thorough in various aspects, lacked accommodation. During the pandemic in 2009, there was no proof of regulations actually being brought to force. Coordination between nations was a huge challenge that the IHR could not seem to have an answer to, a survey conducted has laid down. <sup>55</sup> The challenges that the IHR <sup>56</sup> as

international concern in accordance with the criteria and the procedure set out in these Regulations.”

<sup>53</sup> International Health Regulations (IHR) art. 14(1) & (2) (2005)

“1. WHO shall cooperate and coordinate its activities, as appropriate, with other competent intergovernmental organizations or international bodies in the implementation of these Regulations, including through the conclusion of agreements and other similar arrangements.

2. In cases in which notification or verification of, or response to, an event is primarily within the competence of other intergovernmental organizations or international bodies, WHO shall coordinate its activities with such organizations or bodies in order to ensure the application of adequate measures for the protection of public health.”

<sup>54</sup> *Global Health Risk Framework: Governance for Global Health: Lessons from Past Outbreaks*, FORUM ON MICROBIAL THREATS (May 11, 2016), [https://www.ncbi.nlm.nih.gov/books/NBK362964/#sec\\_000024](https://www.ncbi.nlm.nih.gov/books/NBK362964/#sec_000024)

<sup>55</sup> Fineberg H.V., *Pandemic preparedness and response – lessons from the H1N1 influenza of 2009*, NEW ENGLAND JOURNAL OF MEDICINE 1335-1342 (2014)

<sup>56</sup> *Id.* at 1336



well as the WHO <sup>57</sup> face have led to the necessity of a better mechanism, or a better cooperation to be set in motion if we are to succeed in future containment and response to public health emergencies.

Similar recommendations were made in the 2014 outbreak of Ebola in West Africa, and what came from this outbreak was that the IHR still required reform and that the WHO, although a bona fide organisation, lacked the drive or the execution of its expected functions. <sup>58</sup>

### RESPONSE TO THE COVID-19 PANDEMIC

When we consider the background of the IHR as a functioning mechanism in today's context, several questions crop up. With the outbreak of COVID-19 being declared as a global pandemic, the IHR has been put to test again and there is still scepticism as to the kind of reach these regulations can have. <sup>59</sup>

It is really important to, first hand, note that these regulations are *not binding*. Essentially, no State Party is bound to follow the regulations or directions that the WHO lays

down. In other words, there is no penalty for non-compliance. <sup>60</sup> And as a result, no WHO Member state has fully complied with the regulations laid down under the IHR. <sup>61</sup> This non-compliance could be as a result of the non-availability or lack thereof of the required provisions in tackling the COVID-19 pandemic. However, it could also be because of the Member States themselves refraining from participating in global cooperation.

This premise stems from the fact that countries have violated the basic principles of the IHR, which require the notification of any potential public health emergency to be reported to the WHO. The accusations made on China about the veracity and accuracy of the information that they were providing to the WHO were brought into picture. Furthermore, several reports questioning China's steps of implementing censorship and mass quarantine as violation of human rights and civil liberties were brought under

“Despite these positive features, many member states did not have in place the capacities called for in the IHR, nor were they on a path to meet their obligations by the 2012 deadline specified in the document. Of the 194 eligible states, 128 (66%) responded to a WHO questionnaire on their state of progress in 2011. Only 58% of the responding member states reported having developed national plans to meet their core capacity requirements, and only 10% claimed to have fully established the capacities called for in the IHR.”

<sup>57</sup> *Supra* note 6, at 1339.

<sup>58</sup> *Supra* note 5.

<sup>59</sup> Lauren Tonti, *The International Health Regulations: The Past and the Present, But What Future?*, HARVARD INTERNATIONAL LAW JOURNAL (Apr 9, 2020),

<https://harvardilj.org/2020/04/the-international-health-regulations-the-past-and-the-present-but-what-future/>

<sup>60</sup> *Id.*

“Unfortunately, the trends of forsaking WHO guidance while implementing additional bans that disrupted travel and trade are all repeat offenses, as the same types of infractions occurred during the Ebola and swine flu outbreaks.”

<sup>61</sup> *Id.*

“Despite extended compliance deadlines, no WHO Member State is in complete compliance with the IHR's core competencies. Europe achieved the highest level of compliance at 72% across all competencies, according to the WHO's State Parties Self-Assessment Annual Reporting Tool (“SPAR”).”



scrutiny. If proved, it would again be in violation of the IHR guidelines of 2005.<sup>62</sup>

The other kind of international accountability that can be reflected here is the kind of international cooperation that the COVID-19 outbreak has brought out in times of collective losses. Despite very many hiccups when it comes to the kind of responsibility that certain countries show towards international compliance of the IHR provisions to fight the pandemic. Countries like South Korea have gone to the greatest extent possible to measure the pandemic and provide transparency to the people as much as they can. Furthermore, the country also set up initiatives to reach other lesser advantageous countries like Ghana and Kenya.<sup>63</sup> This is the kind of cooperation that the IHR ideally aimed to achieve amongst countries, but sadly it has not been able to

reach this goal internationally and collectively. And furthermore, countries like Singapore<sup>64</sup>, Taiwan<sup>65</sup> have shown prompt and excellent response mechanisms towards the pandemic and this falls in stark contrast with the kind of response that countries like the United States of America and the United Kingdom have adopted. Naturally, it can be assumed that the response, and that too, a positive response, is much easier in countries smaller in geography as compared to the USA and the UK. The countries have made considerable efforts when it comes to mitigating the pandemic's effects, but the response has come several days, even weeks behind time. Lack of prompt responsibility and understanding of the gravity of the situation at an optimal stage in a pandemic can derail the effectivity of mitigation tactics.<sup>66</sup>

<sup>62</sup> International Health Regulations (IHR) art. 3(1) (2005)

“1. The implementation of these Regulations shall be with full respect for the dignity, human rights and fundamental freedoms of persons.”

<sup>63</sup> Dawoon Chung, Hoon Sahib Soh, *Korea's Response to COVID-19: Early lessons in tackling the pandemic*, WORLD BANK (Mar 23, 2020), <https://blogs.worldbank.org/eastasiapacific/koreas-response-covid-19-early-lessons-tackling-pandemic>

<sup>64</sup> Laignee Barron, *What We Can Learn From Singapore, Taiwan and Hong Kong About Handling Coronavirus*, TIME (Mar 13, 2020), <https://time.com/5802293/coronavirus-covid19-singapore-hong-kong-taiwan/>

“But the tally indicated more about the thorough testing conducted on the island of 5.7 million. A study by Harvard University's Center for Communicable Disease Dynamics estimates Singapore detects almost three times more cases than the global average due to its strong disease surveillance and fastidious contact tracing.

In order to uncover COVID-19 infections that may have otherwise evaded detection, Singapore's health authorities decided early

on to test all influenza-like and pneumonia cases.”

<sup>65</sup> Isaac Scher, *Taiwan has only 47 coronavirus cases. Its response to the crisis shows that swift action and widespread healthcare can prevent an outbreak.*, BUSINESS INSIDER (Mar 12, 2020, 10:23PM IST), <https://www.businessinsider.in/science/news/taiwan-has-only-47-coronavirus-cases-its-response-to-the-crisis-shows-that-swift-action-and-widespread-healthcare-can-prevent-an-outbreak-/articleshow/74600192.cms>

“On December 31, Chinese officials notified the World Health Organisation that China had several then-unknown cases of pneumonia. And that same day, the Taiwanese Center for Disease Control began monitoring passengers who arrived in the country from Wuhan. Government officials boarded flights from Wuhan as soon as they landed, monitoring passengers for COVID-19 symptoms.”

<sup>66</sup> *The US coronavirus response: An F for failure?*, ALJAZEERA (Mar 21, 2020, 5:42PM GMT), <https://www.aljazeera.com/programmes/upfront/2020/03/coronavirus-response-failure-200320052137650.html>



The problem ultimately comes down to lack of credibility that countries hold when it comes to tackling a global pandemic or health emergency collectively.<sup>67</sup> It is very important that countries understand the importance behind collective responsibility. It is ultimately, the responsibility of every human being to be treated with dignity and respect, which not only the IHR, but the UDHR<sup>68</sup> itself lays down very poignantly.

## CHAPTER VI: SUGGESTIONS

### ADMINISTRATIVE:

- When all the communities, organizations and sectors of the economy are engaged in pandemic response and preparedness, it is the responsibility of the government as natural leader to ensure overall coordination and provide resources and technical assistance to the medical community who are on the front lines in the fight against the pandemic.
- Providing the citizens with reliable information allows a better preparation against the pandemic.

- Implementation of legislations and policies which help optimize pandemic preparedness allows for the entire economy to handle the crisis better prepared.

### PRIVACY:

- Firstly, one of the options could be for the Personal Data Protection Bill to be implemented, since it provides provisions for the erasure of data so collected, and for grievance redressal mechanisms along with a limit on the unchecked ability of the Data Fiduciary or the government to claim the data on account of national security, foreign relations etc.

Second, if there is such a collection of Data for public health purposes, it is essential that there be no access of this information to private companies and firms, so as to wield more political power and win elections as in the case of Cambridge Analytica and Facebook, since this shall add onto the already skewed election process in India. The exception here being the ICMR for health-related purposes.

“When the first coronavirus cases were identified in the US, Donald Trump dismissed the seriousness of the spread. In January he said the virus was under control, in February he said it would "go away", and suggested Democrats were using the virus as a "hoax" to make him look bad.”

See also, *The Guardian view on the UK response to coronavirus: playing catch up*, THE GUARDIAN (Mar 20, 2020, 6:53PM GMT), <https://www.theguardian.com/commentisfree/2020/mar/20/the-guardian-view-on-the-uk-response-to-coronavirus-playing-catch-up>

“The government pivoted away from herd immunity, yet did not move fast or far enough. Institutions and large parts of the public have proved themselves far ahead of authorities: the Premier League suspending the season; the Church of England

announcing that only five people would be allowed at weddings.”

<sup>67</sup> Ilona Kickbusch, *Mapping the Future of Public Health: Action on Global Health*, 97 CANADIAN JOURNAL OF PUBLIC HEALTH 6, 7 (2006)

“But even more important is the pressure to move beyond a charity model of foreign aid to a global social contract. “The very values of an enlightened and civilized society demand that privilege be replaced by generalized entitlements – if not ultimately by world citizenship then by citizens rights for all human beings of the world.””

<sup>68</sup> Universal Declaration of Human Rights (UDHR) art. 1 (1948)

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”



- Thirdly, the data so collected should be one-time use, and erased later, and must not be used multiple times. The consent so received should be one time and not implied to be endless.
- Most Importantly, a sound legal framework should be in place, which should be run by a tribunal independent of the government's reach, to regulate the data better, and this regulator mustn't be open to be manipulated by the authorities in power.

**MEDIA:**

- There have been measures taken by the major social media companies to ward off the fake news that is circulated on their domains like having a fact check done by a professional, however, it needs to be approached more at the grassroots level,
- In India it is necessary that the implementation of the legislature that exists, for example, S.54 must take place rather than mere curbing or propagating a divide and infringing on Human Rights of the people at large, it would also be better if there was post censorship rather than a pre-censorship, and the personnel involved in the circulation or propagation be prosecuted by means of Introducing apt legislation that specifically deals with such atrocities.

**HUMAN RIGHTS:**

- The right to a clean environment, and access to resources including shelter and food and water, is guaranteed under the constitution and international mandates.. All classes of

society also have to Right To Education, and at times of online classes, this too seems unfulfilled.

- During a pandemic, ethical and practical dilemmas arise concerning the provision of treatment and the allocation of resources.<sup>69</sup>it is pertinent to keep in mind that treatment needs to be accessible to all, and resources need to be allotted across classes. Planning processes for pandemics, must include ethical discussion, and they should be carried out in advance in order to avoid human right infringements.
- The migrant workers, slum dwellers, low income families, and daily wage workers have to be given first priority, during the planning stage, and physicians too need adequate gear as well as protection. Furthermore, ethics and human rights need to take an upper hand when discovering vaccines for the virus.
- The true test of democracy is during such trying times. Though the government has excessive power in their hands to curb freedoms to ensure the flattening of the curve and curing of the virus, it is its constitutional as well as moral duty to uphold all the citizens basic human rights and prevent discrimination of any sort. It is also the media's duty to report in an un-bias and uninfluential manner, and thus the prefixes of 'Muslims' or any other religious tags must be avoided.

**RESPONSE OF THE INTERNATIONAL COMMUNITY:**

- First and foremost, reform required is the accountability that these countries have to the

<sup>69</sup> I. Pahlman, H. Tohmo, H. Gylling, *Pandemic Influenza: Human Rights, Ethics And Duty To Treat*, 54(1), ACTA ANAESTHESIOLOGICA SCANDINAVICA,12, (2009).



WHO or the United Nations. These regulations are drafted with full approval and ratification of the Members. However, they do not have a binding or obligatory nature. This must be changed. If not absolutely, then variably. Certain crucial aspects must be made compulsory to abide by, and there must be repercussions for non-compliance.<sup>70</sup>

- Additionally, organisations like the WHO must be more neutral, because it is weaker and developing nations that require its support most. In cases like the present pandemic, it should be kept in mind that where there is appreciation, there must also be criticism.<sup>71</sup>
- With respect to nations, cooperation is crucial. Steps must be taken by every country to mitigate a pandemic instead of adapting after it has caused considerable, irrevocable damage.<sup>72</sup> This might be costlier than

adaptive measures taken after a pandemic, it proves to be a more effective alternative in the long-run, reducing pandemic casualties or threats considerably at the right time.<sup>73</sup> The problem must be foreseen and responded to in compliance with the IHR and WHO guidelines.

- Lastly, the concept of “global citizenship” must be inculcated in the citizens of every country, to make them more socially active in such times.<sup>74</sup>

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“Our analysis of mitigation policies suggests that, for both low prevalence and high prevalence zoonotic EID scenarios, mitigation will be more cost effective in reducing pandemic risk than adaptation to the rise in EID events. Furthermore, mitigation strategies need to be enacted immediately to be optimally effective...”

...Despite these challenges, our findings illustrate the urgency with which global initiatives that mitigate disease emergence need to be launched for optimal impact via the significant savings that we find from implementation sooner rather than later. Currently, mitigation programs tend to be funded through national public health measures, international development aid, or national commitments to intergovernmental agencies.”

<sup>73</sup> *Id.*

<sup>74</sup> *Supra* note 68, at 8.

<sup>70</sup> *Supra* note 68, at 7.

“The United Nations Development Program has recently issued a list that indicates the directions a new global approach to governance must take. As a matter of principle, we must move: • from nation state to multi-actor accountability, • from national to international and global accountability, • from a focus on civil and political rights to one on economic, social and cultural rights, • from punitive to positive ethos (name and shame), • from multi-party to inclusive models of democracy...”

<sup>71</sup> *Supra* note 60.

“Additionally, while the WHO stated that it is not in the business of shaming Member States for missteps, it has praised China for what many call draconian measures. Critics call such politically motivated support a “deception” that gave the global community “a false sense of assurance” about COVID-19’s manageability.”

<sup>72</sup> Jamison Pike, Tiffany Bogich, Sarah Elwood, David C. Finnoff, Peter Daszak, *Economic optimization of a global strategy to address the pandemic threat*, 111 PROCEEDINGS OF THE NATIONAL ACADEMY



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