



COVID-19 AND AFTERMATH

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ABSTRACT

The “Storm” of Covid-19 not only swept many lives but also a bundle of rights. The transmission of virus is a bane for the country, especially for the citizens who believed in constitutionalism. The Constitution of India guaranteed several rights to the indigent citizens. The Constitution was inscribed with plethora of rights which includes fundamental rights and directive principles of state policies but it failed to keep its promise during the pandemic. Apart from the constitutional safeguards there are other important problems that are needed to be discussed, like increase in domestic violence and physiological illness. Whom is to blame? What is to lose?

The entire world came to a standstill soon after the risk for transmission of SARS-CoV-2 a.k.a. coronavirus shot up. It is posing threat to people all around the world. It is a phase from which we have to move on. It is a big jolt to the economic system; especially an economy that gives preference to both socialistic and capitalistic methods, like India. India had witnessed many such phases where people lost their jobs and even their livelihoods. But this went to an extreme end. This pandemic disturbed all kinds of businesses, channels of businesses, and stood as a major problem to the government. The government has taken many stands to curb

the transmission of the virus, but it couldn't happen to stop the community spread.

On the other hand, the constitution, an epitome of law, and a guiding force that is infused with people's rights got effected. Many laws in the country need a revamp. Many financial transactions have come to halt. Disruption in the supply chain and cash flow system led to the evasion of contractual obligations. Clauses like Force Majeure, where most of the contractors have never come across, are playing a major role to avoid bankruptcy. Labor laws, contractual laws, commercial laws, and taxation laws require a reform to tackle the loss and to manage the crisis. It took generations to pay off the load caused due to “The Great Depression”. So, it is not an unprecedented scenario. It is just atypical.

It led to a constitutional dilemma. Concerning India, the spread of virus has effected and rescinded many rights that are guaranteed by the Constitution of India. The spread of coronavirus has made the government to take certain precautionary measures which affected the lives, rights of the people and made the nation at daggers drawn.

Our constitution is a patois, infringed few fundamental rights and made the nation devoid of democracy. Whatever the problem may be, whatever the magnitude of its effect may be, the Constitution would be the first one to be disturbed and discussed because of its vulnerability.

Impact on rights conferred by the Constitution

The concept of Fundamental Rights plays a significant role in a man's busy life. Our



constitution backs these fundamental rights and these rights cannot be abrogated at any cost. Amid pandemic, enforceability of fundamental rights became brewing trouble. In the case of *Consumer Education and Research Centre v. Union of India*¹, the apex court held that the Right to Health and Right to medical care is a fundamental right under Article 21 of the Indian Constitution. Many states across the country converted major government hospitals into Covid-19 hospitals to ensure that this right is implemented and protected. Even in the ongoing pandemic, Maharashtra and Delhi invoked The Epidemic Diseases Act, 1897 before the central government invoked the National Disaster Management Act, 2005 on March 23². States like Delhi, Uttar Pradesh, and Punjab in an unprecedented move acknowledged the need for unemployment wages to ensure self-sustenance of the poor³. It is a fact that India has never spent more than 2% on health care. This pandemic exposed vulnerabilities in India's health care system. To be clear, the constitution of India never declared the right to health as a fundamental right. However, references were made concerning the provision. The Directive Principles of State Policy in Part IV of the Indian Constitution provide a basis for the right to health. Article 39 (E) directs the State to secure the health of workers. Article 47 casts a duty on the State to raise the nutrition levels and standard of living of

people and to improve public health. The constitution also tried to indulge Municipalities and Panchayat to improve their health care facilities with respect to Article 243G (read along with 11th schedule).

The principle of solidarity is closely linked to the fundamentals of justice and equity. In the context of the right to health, solidarity can guarantee equal access to public health systems to all.⁴ States share an unequal level of standards in Health Facilities. This is due to financial constraints. The rampage of Covid-19 even made the district hospitals to be fully equipped with utmost medical infrastructure. A legislative background and support are required to implement this rightfully and forcefully, something like the 93rd constitutional amendment (concerning education) would be helpful. One of the discomfiting outcomes of the outbreak is the implementation of the Right to Health in a normal course. Doctors restricted themselves to treat their patients and visit the hospitals as symptoms for Covid-19, like cough and fever are very common among the people. Therefore, doctors are not risking their lives. So, they closed the outpatient wing. This abridges the Right to Health. What concerns here is that people suffering from treacherous diseases like cancer, tuberculosis, and psychological ailments stopped their sessions. On the other

¹ *Consumer Education and Research Centre v. Union of India*, 1995 AIR 922, 1995 SCC (3) 42

² Nishant Sirohi, Declaring the right to health a fundamental right, (July 14, 2020), Observer Research Foundation, <https://www.orfonline.org/expert-speak/declaring-the-right-to-health-a-fundamental-right/>

³ Shivkrit Rai and Nipun Arora, How covid 19 is questioning the Constitutional fabric of India, (14-4-

2020), Dailyo, <https://www.dailyo.in/politics/covid-19-coronavirus-in-india-lockdown-fundamental-rights-constitution-of-india-right-to-health-right-to-education-midday-meal-privacy/story/1/32712.html>

⁴ Nishant Sirohi, Declaring the right to health a fundamental right, (July 14, 2020), Observer Research Foundation, <https://www.orfonline.org/expert-speak/declaring-the-right-to-health-a-fundamental-right/>



hand, the government is failing to cope up with the transmission of the virus. Lack of sufficient testing kits and time may be a reason behind it. Front line warriors like health care workers were not given sufficient Personal Protective Equipment (PPE). The right to health is not only a fundamental right in India but also in International laws. The right to health, elaborated seminally under the International Covenant on Economic, Social and Cultural Rights (ICESCR), requires States to take steps for the “prevention, treatment and control of epidemic, endemic, occupational and other diseases” and create conditions to assure “medical service and medical attention in the event of sickness.”⁵

Migrant laborers are the worst effected clan during the pandemic. Migrant workers are already having enough problems which made them a vulnerable class, were hit below the belt. Their plight for help is unforgettable. Covid-19 compelled them to leave their professions, possessions and made them walk to their hometowns. They were mandated to get hungry and fatigue. This abridges many rights which are meant to be safeguarded by the constitution. Starting from the Right to live with dignity to the Right to shelter, every possible right conferred was curtailed. Labor laws are weapons to the workers. It is not unbelievable that they believe labor laws as their constitution. But, they were suspended temporarily due to the pandemic.

The government has also imposed reasonable restrictions on freedom of peaceful assembly and association. It is a fundamental right for any democratic state. The “Sarkar” also imposed restrictions on movements. So, it became impossible for people to move freely within the country. There were many instances where students were kicked out of the hostels and graduates took devils way to protest. North Indian states like Uttar Pradesh, West Bengal, and Delhi were renowned for their unorganized sector. These are the states with extreme population density and lack of social distancing. Workers, who hailed from these places, were worst hit.

The apex court in the case of PUCL v. Union of India⁶ held that it is the responsibility of the state to provide food for free of cost out of surplus stock lying with them, when it is unused. The court held that the food grains are to be provided to infirm, aged and destitute citizens of the country. The court also stated that the Right to food is recognized as a right that is subsumed in the Article 21. Migrants struggle for the food is horrible. Even though the government took steps like expanding PDS systems, the implementation failed utterly. Similarly, in Jharkhand, seven lakh households have pending applications for ration cards and cannot avail the benefit of the Public Distribution System.⁷ Most of the ration shops were shut down due to the non-availability of food. Cancellation of Mid-day meal programs were also added as a fuel to the fire regarding the problems faced by the

⁵ Benjamin Mason Meier, Realizing the right to health must be foundation of the covid-19 response, (May 6, 2020), Universal rights group, <https://www.universal-rights.org/by-invitation/realizing-the-right-to-health-must-be-the-foundation-of-the-covid-19-response/>

⁶ People’s Union for Civil Liberty v. Union of India, Writ Petition (civil) 196 of 2001

⁷ Shivkrit Rai and Nipun Arora, How covid 19 is questioning the Constitutional fabric of India, (14-4-2020), Dailyo, <https://www.dailyo.in/politics/covid-19-coronavirus-in-india-lockdown-fundamental-rights-constitution-of-india-right-to-health-right-to-education-midday-meal-privacy/story/1/32712.html>



children. The right to education and food for children were stalled abruptly.

The right to education is a very sensitive issue to deal with. The rise of pandemic curbed the right to education. Article 21-A, which guarantees the right to free and compulsory education, is now a truncated fundamental right. The right to (free and compulsory) Education Act, 2009 brought a significant recognition to this right. The present Act has its history in the drafting of the Indian Constitution at the time of Independence but is more specific to the Constitutional Amendment of 2002 that included the Article 21A in the Indian constitution making education a fundamental right.⁸ Section 16 of the Act provides that no student studying in elementary classes (Class I to Class VIII) will be held back or expelled. He resultant effect would be that all students studying in government schools in elementary classes will be promoted without receiving or attaining the necessary education, thereby making fundamental concepts weak.⁹

The right to a speedy trial is a right where rule of law is honored. Right to a speedy trial is one amongst the first rights that makes the nation to distinguish itself from anarchy. Our constitution wholly recognized that. But owing to Covid-19, this right is facing an imminent threat. Courts are not working effectively and efficiently, which led to an increase in the load and pile of cases. Indeed entire judiciary came to a standstill. However, the Hon'ble Supreme Court and various other High Courts have adapted to the

dynamic environment and beckoned video conferencing. District courts are still lacking behind a proper technological environment but it costs time to cope up.

Apart from economic crisis, these rights are also being strained. India's growth rate fell down to 1.9%. Millions of people were pushed below the poverty line. Many hoped that 2020 would bring bliss; instead it would end in despair. The scientific journal PLUS ONE has found the following reductions¹⁰:

- Consumption: US\$3.8 trillion (4.2 percent ~ GDP of Germany)
- Jobs: 147m (4.2 percent of the global workforce)
- Income from wages and salaries: \$2.1 trillion (6 percent)
- Most directly hit: US, China (mainland), air transport and related tourism
- Greenhouse gas emissions: 2.5Gt (4.6 percent) -- larger than any drop in human history.

Covid-19 and environmental studies

Population is always a hurdle. The world's population increased from 1 billion to 7.7 billion within 200 years. People are afraid of coronavirus than global warming because global warming is much slower than the transmission of the virus. Indeed, the spread of the coronavirus raised the bar of environmental consciousness among the people. Environmental study, a subject which is given least preference by many is now ruling the day. It is a difficult task to

⁸ Chronology, Right to Education, <http://righttoeducation.in/know-your-rte/chronology>

⁹ Shivkrit Rai and Nipun Arora, How covid 19 is questioning the Constitutional fabric of India, (14-4-2020), Dailyo, <https://www.dailyo.in/politics/covid-19-coronavirus-in-india-lockdown-fundamental->

rights-constitution-of-india-right-to-health-right-to-education-midday-meal-privacy/story/1/32712.html

¹⁰ Lenzen M, Li M, Malik A, Pomponi F, Sun Y-Y, Wiedmann T, et al. (2020) Global socio-economic losses and environmental gains from the Coronavirus pandemic. PLoS ONE 15(7): e0235654. <https://doi.org/10.1371/journal.pone.0235654>



moderate the graph of coronavirus without having environmental consciousness. We knew the environmental damage during the pre-corona period but we completely ignored it. The rampant transmission of virus helped the youth across the world to devote a marginal amount of time to Environmental study. It may be a behavioral change. Sanitization and clean environment are the words of the day. 21st century became humanity's biggest challenge to solve the problems caused due to adverse climatic changes. Usage of masks, gloves, and other precautionary devices boosted during the pandemic, but what would be its effect on the environment? N95, KN95, 3ply, and 2ply masks are being widely used. Do these cause any damage to the soil? Are they as dangerous as plastic? If yes, what would be our alternative?

Some studies show that poor air quality may be reason to spread Covid-19. It is said that people who got affected in industrial area are more likely prone to death. Response to medication depends on environmental factors. Health, air, water and food play a crucial role in medication. It is clear that lessons from previous epidemics have not been learned. Despite the rage of the virus there are some beneficial affects to the environment. Clearly, consumption of fuels was minimized due to reduction in the industrial production. So, there was a significant reduction in the consumption of fossil fuels. China, being the world's largest carbon emitter, has witnessed 25% reduction

in its carbon emissions which is equivalent to 200m tones of CO₂ (MtCO₂). In Milan, during the 4 weeks preceding 25th March, average concentrations of NO₂ were at least 24% lower than four weeks earlier, and the average concentration during the week of 16-22 March was 21% lower than for the same week in 2019¹¹. In Bergamo, there has been a constant decline in NO₂ pollution over the same period. The average concentration during the week of 16-22 March was 47% lower than for the same week in 2019¹². In Rome, average NO₂ concentrations were 26-35% lower than for the same weeks in 2019. In Spain, Barcelona's average NO₂ level reduced by 40% from one week to the next, and compared with the same week in 2019, the reduction was 55%. In Madrid, average NO₂ levels went down by 56% from one week to the next, and compared with the same week in 2019, the reduction was 41%.¹³ Even though these measures were only meant for a short period, it made a great change. It would be indeed a surprise for many how people adapted to the new habitat like self-isolation and restriction of travel. Geologically, the pollution can be defined as the addition of any substance or energy to the Earth's atmosphere which leads to adverse effects. Pollution and lack of environmental precautions cause many dangerous diseases both physically and sexually. Environmental conditions affect the stability of any virus or bacteria. It is stated that Covid-19 is less stable at higher humidity and warmer temperatures.

¹¹ Jonathan Chadwick, Air pollution is halved....., (25March 2020), Mail online, <https://www.dailymail.co.uk/sciencetech/article-8150799/Air-pollution-falls-London-coronavirus-lockdown-period.html>

¹² Graham Meller (on behalf of Buttonwood Marketing Services), the Environmental Implications

of Coronavirus, (Apr 01 2020), Environmental Technology, <https://www.envirotech-online.com/article/air-monitoring/6/buttonwood-marketing-services/the-environmental-implications-of-coronavirus/2717>

¹³ Ibid



Atrocities faced by women during lockdown

“Violence is never domestic, it roars wild where every day she serves dinner to the carnivore in porcelain made out of her broken bones”

-Monic@Swain

Across the world, women’s independence will be a victim of the pandemic¹⁴. Pandemic led to a public crisis, health crisis, and economic crisis. Low-income households are the worst hit; as a result, women in these households took the responsibility to look after their kith. This pandemic has led to an increase in domestic violence cases. “Stress” is a cover word used by many patriarchal-psychopaths to treat women inhuman ways. The paternalistic regulations of religions have also subjugated women in India. For example, the ancient Indian text, Manusmriti, determines the moral yardsticks for women through sermons. In Islam, the so-called moral guardianship is reposed in males. Women are victims of gendered spaces that are monitored by deep-rooted patriarchal prejudice¹⁵. Many countries around the world took an initiative to set up domestic violence helplines; where they received record-breaking complaints. As the transmission rate reached a zenith, it is no mystery that the rate of domestic violence has also gone up. India has witnessed a 50% increase in domestic violence cases.

Work, school, and homes sans the abusers being different mediums of escape for women and children before the lockdown don’t exist anymore¹⁶. The thing is, there is no vaccine for this disease. Even though the Protection of Women from Domestic Violence Act (2005) was hailed during its enactment, it failed to reach the expectations. It has been largely flawed by not reaching procedural requirements and no standard protocols to reach out to the victims. The entire world is facing with this heinous crime. The women’s lives across the globe are at stake. It has been testified that the domestic violence became a repetitive thing but not a onetime thing. Hundreds of organizations across the world are fighting to eradicate the problem to deal with this omnipresent issue. It is an urgent need to provide women, who are looking after their household work with enough resources and assistance.

Covid-19 had different impact on men and women. Virus does not have discrimination. Women already face complex decisions and a wide range of barriers preventing their ability to safely escape abusive partners. In times of pandemic, when mobility is constrained, social distancing measures are imposed, economic vulnerability increases, and legal (social services) are scaled back, and challenges in temporarily escaping abusive partners are exacerbated.¹⁷

¹⁴ Helen Lewis, the Coronavirus is a disaster for feminism, the Atlantic, (March 19, 2020), <https://www.theatlantic.com/international/archive/2020/03/feminism-womens-rights-coronavirus-covid19/608302/>

¹⁵ Shubhajt Naskar, The Gendered Impact of Coronavirus Pandemic in India, The Outlook, (15 April 2020), <https://www.outlookindia.com/website/story/india->

[news-opinion-the-gendered-impact-of-coronavirus-pandemic-in-india/350804](https://www.outlookindia.com/website/story/india-news-opinion-the-gendered-impact-of-coronavirus-pandemic-in-india/350804)

¹⁶ Ayushree Nandan, Is domestic violence the next pandemic in India?, (May 21, 2020), Times of India, <https://timesofindia.indiatimes.com/blogs/voices/is-domestic-violence-the-next-pandemic-in-india/>

¹⁷ Megan O’Donnell, Amber Peterman and Alina Potts, A gender Lens on Covid-19: Pandemics and Violence against Women and Children, (April 3, 2020), Center for Global Development,



Be it school, be it home or be it an organization, women bear the utmost responsibility. It is an unnoticed fact that the majority of the front line workers are women. They make up 70% of all health and social services sectors globally.

Coronavirus and its impact on Men

Data from all the four corners of the world show that men face greater risk from Coronavirus than women and children. It was said that androgens like testosterone in male makes the virus to react faster than usual. Not only Covid-19, other dangerous diseases like cancer gets easily affected due to these genes. The mortality rate in men is greater than in women. Some strange genetic reasons are in favor of women. It is said that women have two X chromosomes and men have only one chromosome. Surprisingly, the case is completely different in India. The Case Fatality Rate (CFR) among males and females is 2.9% and 3.3% respectively. The age-specific COVID-19 CFR assumes 'Nike-swoosh' pattern with elevated risks among the elderly. The World Health Organization world standard population structure standardized CFR for India is 3.34%. The adjusted-CFR is estimated to be 4.8%.¹⁸

Besides coronavirus, men are mentally and psychologically affected. Any inefficient or improper decision taken by men of patriarchal society may lead to dire consequences. Covid-19 is responsible for the financial crisis for both daily wage laborers and middle-class businessmen. Some families were completely dependent

on few NGO's, during the pandemic. Men in India mostly look after the financial and other important decisions in the family. Electricity bills, grocery bills and other necessary expenses are inevitable. Schools fees to children lay as an additional burden. To sum up, the Covid-19 has destroyed many lives and shook the foundations of many organizations. Some were benefitted by it and many were defaced by it. So basically history has witnessed two important events; birth and death of Christ and the rise of Coronavirus. The indigenous constitution got suffered, the right to health is ignored, the government successfully failed in looking after migrant workers, domestic violence and abuse reached its peak and environment was pretty pissed- of course, it's a lot take in. We must fight the virus and get back to our normal life where there were increasing sexual harassment complaints, farmers suicide, lawmakers fighting in the "House", ignoring the corruption, and finally not wearing a mask: that is way worse than COVID life.

<https://www.cgdev.org/blog/gender-lens-covid-19-pandemics-and-violence-against-women-and-children>

¹⁸ Joe W, Kumar A, Rajpal S, Mishra U, Subramanian SV. Equal risk, unequal burden? Gender differentials

in COVID-19 mortality in India. J Glob Health Sci. 2020

Jun;2(1):e17. <https://doi.org/10.35500/jghs.2020.2.e17>