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- **VIOLATION OF HUMAN RIGHTS DURING
COVID-19**

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**VIOLATION OF HUMAN RIGHTS OF DOCTORS DURING
COVID-19**

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ABSTRACT

In these unprecedented times, doctors and healthcare workers responding to the global health crisis- trying to save individuals and families with limited resources and types of equipment- have become an unexpected target in the war against covid 19 pandemics. This paper attempts to focus on the violation of human rights of the health-care workers during the ongoing Covid-19 pandemic, with distinct emphasis to analyze subjects like the dues not being paid to the health-care workers, shortage of the number of workers as well as the personal protective equipment and social stigma that has to be faced by the workers daily.

Keywords: Covid-19; Doctors; Human rights; Social stigma; Personal Protective Equipment (PPE); Unpaid due

RESEARCH METHODOLOGY

The project involves secondary research. The use of electronic research has been made to collect information regarding the topic. Newspaper articles and other articles have been the primary source from which information has been collected. Websites have been referred to as well.

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INTRODUCTION

In March, Covid-19 was declared to be a pandemic by the World Health Organization (WHO). By the second week of October, this virus has infected more than 3 crore people worldwide and has claimed more than 10 lakh lives.¹ Almost all countries have imposed restrictions on people's movement and other human rights intending to control the virus's spread.

During these challenging periods, the role played by the health-care workers has been extraordinary. Health workers have risked their own lives just so the lives of strangers to them could be saved. Despite the crucial role played by them, governments worldwide have failed to ensure the safety of health workers due to which they have faced large difficulties in doing their jobs.

A research conducted by Amnesty International has shown that more than 7000 health care workers have died due to Covid-19 worldwide. It is the right of every health care worker to have a safe work environment and be provided with equipment that keeps them protected while dealing with communicable diseases. In India, more than 573 health care workers have fallen prey to the pandemic.²

This paper looks into how the human rights of doctors have been violated during the Covid-19 pandemic. Further, the article looks into the challenges that healthcare workers face while dealing with the virus. The paper also looks into the effects the pandemic has had on the health-care workers' mental health and what measures the Government has taken to support the health-care workers during these challenging times.

FACTORS AFFECTING MENTAL HEALTH

SOCIAL STIGMA

Canadian sociologist Erving Goffman has theorized social stigma as a behaviour through which individuals are socially discredited by being classified as "others who are undesirable". Goffman saw stigma existing as part of the people's lives of p, which they wary of others who do not share their stigma.³

The number of people whom the Covid-19 virus has infected is increasing and will keep on increasing. However, for the health-care, the fight is the virus but also and the wide-spreading social stigma.

¹ WHO Coronavirus Disease (COVID-19) Dashboard (October 13, 2020)

² Agence France-Presse, around 7000 healthcare workers have died due to COVID-19 worldwide: Amnesty International, First post, September 4, 2020

³ Matthew Clair, *Stigma*, Harv. Univ., Core Concepts in Sociology (2018)

During an outbreak of a contagious disease, infectious anxiety may cause people to develop prejudices against the warriors at the frontline, i.e., healthcare workers. People begin to shun health-care workers as they fear being infected, and to some part, fake-news on social media is to blame.⁴

Throughout the country, several incidents have come up in which people shunned health-care workers because of fears of being infected. People have even gone to the extent of attacking the health-care workers who were tracking a person who came in contact with a confirmed case of Covid-19. In Indore, a group of health-care workers tracked down a man who came into contact with a confirmed case of Covid-19. A mob of more than 100 people surrounded them and started throwing stones at them and cursing them.⁵

Not only Indore, but accounts could be found from other cities of the country as well such as Bangalore in which health-care workers were attacked as they went to houses of people to check for symptoms, in the state of Bhopal, doctors who were returning from their shifts were beaten up by none other than the police officers whose very duty is to protect the citizens.⁶

Doctors, nurses and other health-care workers have been asked to vacate their residences forcefully by their landlords as they fear being infected from Covid-19. These actions taken by the landlords are baseless in no small extent as the health-care workers dealing with Covid-19 related cases wear equipment that prevents them from contracting the virus to a large extent thus reducing their risk of being infected.⁷

In Kerala, which happens to be the most literate state in the country, three male nurses were forcefully thrown out by their landlord and lived on an empty quarter in the hospital they worked in. Many people who have put up their homes for rent are avoiding renting their houses to health-care workers due to the fear of catching the virus. Similar stories can be seen in Karnataka, where healthcare workers have stopped coming to the hospital in which Covid-19 patients are being isolated as they would not be allowed to go back to their villages by fellow villagers.⁸

India has a long history of segregating people based on various factors like caste, gender etc. Therefore, such segregation of the health-care workers would seem reasonable to many people. Segregation leads to the institutionalization of stigma, a process through which such behaviours get incorporated into our

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⁴EH News Bureau, Stigma of COVID-19 amongst healthcare professionals, Express Healthcare, (April 29, 2020)

⁵Bloomberg, *Doctors come under attack in India as Coronavirus stigma grows*, Deccan Herald, (April 14, 2020, 12:20 PM)

⁶*Id.*

⁷Neetu Chandra Sharma, *Doctors, nurses face stigma over coronavirus, asked to vacate rented home*, Livemint, (March 25, 2020, 1:00 PM)

⁸*Id.*

everyday routines. The feeling of alienation harms the mental health of the people. Many people start to blame themselves for such actions of other people.⁹

One could ask what the healthcare workers' fault was, but no one could give a satisfying answer for the same. The health-care workers have put their own lives at risk in an attempt to contain the virus and for this apparent "fault" of theirs, are being subjected to such acts of violence. Such behaviour leads to the feeling of alienation in people towards whom such behaviour is extended.

On multiple occasions, our prime minister has asked the people to come out and appreciate the healthcare workers' efforts by banging utensils and through the lightening of candles. Such acts do not provide the moral support needed for someone who is putting their own lives at risk. As can be seen, the ground reality is entirely different, and people do not appreciate healthcare workers' efforts.

A society cannot have its entire population consisting of rational people. However, the hour's need is to ensure that the health-care workers are protected, cared for and motivated by the system and reasonable neighbours.

There is an obligation to protect the health and safety of the health-care workers on the Government. This obligation exists so that they can enjoy just and favourable conditions of work. This obligation includes providing fair wages for equal work without any discrimination, protecting safety equipment so that infectious diseases are not transmitted to the healthcare workers, providing enough time gap between their shifts so that both the minds and bodies of the health-care workers are not overworked etc.

WAGES NOT BEING PAID

Everyone indeed has a part to play in the battle against the Covid-19 pandemic, but it is also true that no one is playing a more important role than the health-care workers. Despite this, the Indian Government fails to appreciate the healthcare professionals' efforts and fails to make them feel motivated to do their jobs.

More than four states have not made timely payment of salaries to the health-care workers. Some of these states are Punjab, Maharashtra, Tripura and Karnataka. This has happened despite the Supreme Court ordering the States to make timely payment of the salaries to the health-care workers. In the month of June, the Supreme Court went to the extent of criminalizing the non-payment of salaries to the health-care workers. The Supreme Court has equated the health-care workers to the soldiers in

⁹ Pradeep Krishnatray, COVID-19 is leading to a new wave of social stigma, The Wire, (May 12, 2020)

wars and has directed the state governments not to make the "soldiers" unhappy in this battle against the Covid-19 pandemic.¹⁰

It is deplorable that States have not made timely payment to the health-care workers even during such a difficult time for the people working in the health-care sector. The apathy towards them does not end there, a recent circular circulated by the Delhi government blamed the doctors who contracted the Covid-19 virus. Such attitudes display the indifference towards the health-care workers.¹¹

Another incident in Delhi can be used to depict the attitude of the Governments towards health-care professionals. More than three hundred doctors in two of the biggest government hospitals in Delhi threatened to resign together as they were not paid their salaries for more than three months. The Delhi government's careless attitude towards the health-care workers makes them feel less valued when, in reality, the medical profession is one of the noblest professions. This has adverse effects on doctors' mental health and cannot be 100% involved in their work as they have to worry about how they would pay their rents, travelling expenses, and pay for essential commodities.¹²

These hospitals are under the Government's administration at the Centre, i.e., the Bhartiya Janata Party. During the beginning phase of the pandemic, the honourable Prime Minister asked the citizens to bang pots as a sign of appreciation for health-care workers. No one can doubt that symbolism is an important part of democracy. However, no one can even doubt that symbolism by itself would not achieve anything. There is a lack of the support provided by the Indian Government to the health-care professionals, which might just extend the country's battle against the Covid-19 pandemic.

HEALTH-CARE WORKERS OVERWORKED

The norms that have been published by the World Health Organization mandate that there be a minimum of 44.5 health-care workers for every ten-thousand people. However, India does not even fulfil half of this requirement, with there being only 20.6 health workers for every ten-thousand people in the country. This should not come as a surprise as the Government's spending on the health sector is one of the lowest in the entire world.¹³

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¹⁰ Amit Chaturvedi, 4 States have not made timely payment to Covid-19 healthcare workers: Govt. tells Supreme Court, Hindustan Times, (July 31, 2020)

¹¹ The Financial Express, Unhealthy ATTITUDE: Deplorable that some states have failed to pay health worker's salaries amid Covid, Financial Express, (August 3, 2020)

¹² Akshay Deshmane, Nearly 300 Doctors in Delhi's Municipal Hospitals threaten Mass Resignations, HuffPost, (June 6, 2020)

¹³ Shoaib Daniyal, To effectively battle Covid-19, India must do much more for its doctors and nurses than bang thali, Scroll, (June 12, 2020)

In Kerala, the government doctors protested and declared that no doctor from the Kerala Government Medical Officer's Association would undertake any additional duty. This has been done as a sign of protest against the Government's apparent lack of concern about the conditions of the doctors who are overworked and too exhausted. The Kerala Government Medical Officer's Association has requested the State Government to deploy additional human resources. Still, the Government has not responded due to which health-care workers have to work around the clock shifts.¹⁴

In Kochi, the doctors are responsible for treating the patients affected by the Covid-19 virus and have to diagnose people and take records of people coming into contact with those who are testing positive for the Covid-19 virus among others be done by the health-care workers as there is an acute shortage of staff in hospitals or people are afraid of themselves becoming the carriers for the virus as these tasks would include coming in contact with people testing positive for Covid-19.¹⁵

It is true that doctors and other health-care workers in the government hospitals are overworked and tired and are too involved in dealing with the pandemic, the doctors and other health-care workers in the private hospitals might have not even been involved at all in the pandemic care despite them stating their willingness for doing the same. This shows to the extent that the health sector has not been used to its entire potential in the country's battle against the Covid-19 pandemic.¹⁶

SHORTAGE OF PERSONAL PROTECTIVE EQUIPMENT

Safety is a significant issue while dealing with infectious diseases. By using personal protective equipment, the transmission of the virus to the health-care workers may be prevented. These equipment cover the user's heads, the eyes and face, and almost the entire body. This is useful as the body parts like the eyes, nose and mouth through which the virus might enter the person's body coming into contact with a person who has already contracted the virus is covered.

In the first survey conducted on the status of the personal protective equipment in the state of Delhi, it showed that either the equipment is not available in most hospitals or there is an acute shortage of the same. On several occasions, the government has claimed that there is no such shortage of personal protective equipment; however, the survey conducted by a group of independent health researchers hints to the contrary. The participants in the survey were the doctors, nurses and other health-care workers. Nearly 33% of the participants claimed that the N-95 masks have not entirely made available

¹⁴ Special Correspondent, Government doctors in Kerala to boycott additional duties, The Hindu, (October 15, 2020)

¹⁵ Staff Reporter, Overwork, stress among health workers in Kochi raise concern, The Hindu, (July 21, 2020)

¹⁶ G.B.S.N.P. Varma, COVID-19 fatigue wilting frontline workers, Nature India, (October 5, 2020)

to the health-care workers. These masks are useful as they prevent the virus molecules from entering into the wearer's respiratory system. More than 85% of the healthcare workers did not know how to use the equipment; neither were they aware of the appropriate kind of equipment for their work.¹⁷

In the beginning stages of the pandemic, a report suggested that India needs at least 6.2 million personal protective equipment kits and 38 million masks to protect healthcare workers from contracting the Covid-19 virus successfully. However, the number that has been made available to the health-care workers is significantly lower than that.¹⁸

An acute shortage of personal protective equipment kits and health-care workers to protect themselves has been seen using raincoats and even garbage bags. No one can doubt that these are unprecedented times, and the health-care workers being at the forefront of the battle against the pandemic are facing the worst odds. Some doctors working in the isolation wards have gone to the extent of using their motorcycle helmets as they have not been provided with full personal protective equipment.¹⁹

As a result of the shortage and lack of knowledge regarding the proper use of the personal protective equipment kits, the number of health-care workers contracting the Coronavirus is increasing day by day. The number of health-care workers whom Covid-19 has infected is high, but it could be much more than the authorities are claiming as there is no proper data collection regarding the same by the government. More than 1200 health-care workers have tested positive with Covid-19 by June only in the capital state of Delhi.²⁰ With more and more health-care workers testing positive for Coronavirus, the burden on those not infected with the virus has increased. It becomes the respective state governments' responsibility to deploy additional human resources so that the healthcare workers' duty hours do not get unbearable. However, no such measures have been taken by the Governments.

CONCLUSION

A healthcare worker provides care and services to the sick directly as a doctor or indirectly as a helper, technicians, etc. Any country can develop only when its health-care workers are in good health and get enough time for leisure and look after their mental health.

¹⁷Sumi Sukanya Dutta, Availability of PPE kits still a major issue in Indian hospitals: Survey, *The New Indian Express*, (June 24, 2020)

¹⁸ Aditya Kalra, Devjyot Ghoshal, *India needs at least 38 million masks to fight coronavirus: agency document*, *Reuters*, (March 28, 2020) <https://www.reuters.com/article/health-coronavirus-india-equipment/india-needs-at-least-38-million-masks-to-fight-coronavirus-agency-document-idINKBN21F0H3?edition-redirect=in>

¹⁹Pranit Sarda, *India's PPE crisis puts workers in the line of fire*, *Forbes India*, (April 29, 2020) <https://www.forbesindia.com/article/coronavirus/indias-ppe-crisis-puts-workers-in-the-line-of-fire/59073/1>

²⁰The Wire Staff, Delhi: More than 2,000 healthcare workers have tested positive for COVID-19, *Finds report*, (June 20, 2020)

Given that the healthcare industry is one of the most hazardous environments to work in because of the constant risk of contracting a disease, healthcare workers' protection becomes an important task. These health-care workers may be seen as being in a similar condition as those of the construction workers and miners. Hence, they too need all the protective equipment that they may require to keep themselves safe.

The government should take appropriate steps to assist the health-care workers in fighting the pandemic. These steps may include hiring more workers so that the burden does not fall on a small number of workers, and more people can be looked after. This may help distribute work currently; it is on the doctors to track the primary and secondary contacts of a person testing positive for Covid-19.

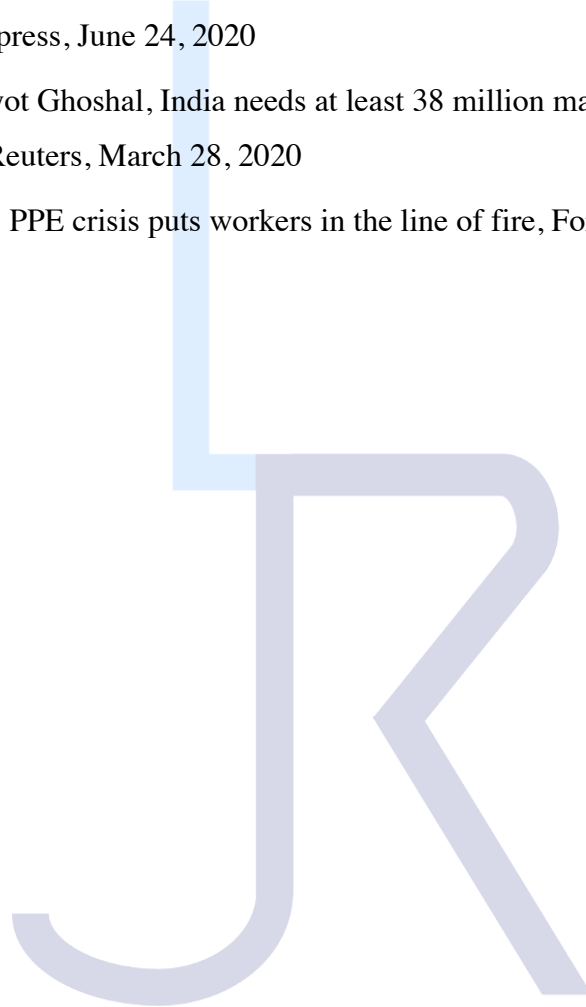
BIBLIOGRAPHY

NEWSPAPER ARTICLES

- EH News Bureau, Stigma of COVID-19 amongst healthcare professionals, Express Healthcare, April 29, 2020
- Bloomberg, Doctors, come under attack in India as Coronavirus stigma grows, Deccan Herald, April 14, 2020
- Agence France-Presse, around 7000 healthcare workers, have died due to COVID-19 worldwide: Amnesty International, First post, September 4, 2020
- Neetu Chandra Sharma, Doctors, nurses face stigma over coronavirus, asked to vacate rented home, Live mint, March 25, 2020
- Pradeep Krishnatray, COVID-19 is leading to a new wave of social stigma, The Wire, May 12, 2020
- Amit Chaturvedi, 4 States have not made timely payment to Covid-19 healthcare workers: Govt. tells Supreme Court, Hindustan Times, July 31, 2020
- The Financial Express, Unhealthy ATTITUDE: Deplorable that some states have failed to pay health worker's salaries amid COVID-19, Financial Express, August 3, 2020
- Akshay Deshmane, nearly 300 Doctors In Delhi's Municipal Hospitals, threaten Mass Resignations, HuffPost, June 6, 2020
- Shoaib Daniyal, to effectively battle Covid-19, India must do much more for its doctors and nurses than bang thali, Scroll, June 12, 2020

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- G.B.S.N.P. Varma, COVID-19 fatigue wilting frontline workers, Nature India, October 5, 2020
- Sumi Sukanya Dutta, Availability of PPE kits still a major issue in Indian hospitals: Survey, The New Indian Express, June 24, 2020
- Aditya Kalra, Devjyot Ghoshal, India needs at least 38 million masks to fight coronavirus: agency document, Reuters, March 28, 2020
- Pranit Sarda, India's PPE crisis puts workers in the line of fire, Forbes India, April 29, 2020



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**PRISONS DURING COVID-19: A PROMINENCE ON THE NCRB
DATA**

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ABSTRACT

This paper attempts to focus on the Statistical information provided by the “Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India”, with distinct emphasis to analyze subjects like overcrowding, gender, rehabilitation of inmates and their deaths, and illnesses through the records.

The paper also highlights the current status of this institution amidst the action of these institutions, and the way the inmates were dealt with.

RESEARCH METHODOLOGY

The project involves secondary research. The use of electronic research has been made to collect information and data regarding this theme. Journals, reports, handbooks, and other referral material have been principally helpful in giving the project a firm framework. Websites and articles have also been referred to.

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INTRODUCTION

The Criminal justice system in its entirety, there is composed of various prison administration being at its core. Prison institutions are named differently in different countries like “Correctional Facilities, Detention Centre, Jails, Remand Centre” etc. The last century has witnessed a paradigm transition from social perspective towards prisoners. The Conventional system of prisons manifested prison a punishment, which experienced a complete transition in the socio-legal perception towards prison and its inmates. The same is now considered as a correctional institution which in itself connotes that there is broader focus on the reformation of inmates rather than punishing them.

Owing to the tremendous increase in the prison population in the last few decades, several challenges have arisen before the prison administration such as hygiene issues, overcrowding, security & safety in prison, etc. The Supreme Court of India, in recent years, has heavily attacked the sub-human conditions present in prisons.

The existing Pandemic has brought to light the overcrowding aspect of the Indian prisons – which has already been raised in the prison rights discourse, a plethora of times. Despite the multiple reminders, the legislature never paid heed to the issue. This upheaval must be catered to urgently. More than 61,000 Indian prisoners have been released as an emergency response to Covid-19. However, many continue to be exposed to the infection in overcrowded facilities.

Another emerge view point on it, on the contrary, is that decongesting prisons just by releasing not the solution to arrest the spread of coronavirus until the sub-optimal health environment prevalent in Indian prisons across the country is addressed.

This paper contains comprehensive information including statistics, analysis and appraisal, at the national level on four such aspects of these institutions:

- I. Overcrowding
- II. Gender
- III. Rehabilitation of Prisoners
- IV. Death and illness of Prisoners

The statistical information has been extracted from the NCRB report for the year 2018²¹ as this was the latest report available able and this has only been update minimal small extent in the following two years.

²¹ Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India.

I. OVERCROWDING

To deduce the overcrowding analysis in the prn institutions at different tiers has to be comprehended in depth.

Prisons exist at three levels such as “Taluk level, District level, and Zonal/Range level” and Jails at these levels are called “Sub Jail, District Jail, and Central Jail” respectively. Generally, capacity in terms of infrastructure, security, educational and rehabilitation facilities, medical facilities, availability of prison staffs & their powers etc. are letter from “Sub jail to Central Jail”.

Prisons and their administration are a State Subject as it is listed in “List II in Schedule VII of the Constitution of India” on Establishments in different States/UTs encompass several tiers of jails.

The statistical data and the comparison among different jails across various states and UTs can be understood through the following table and diagrams.

Table 1: Types of Prisons

Type of Prisons	Description	Total No.	States/UTs Specific		No. of Inmates			Occupancy Rate		
			Highest No.	Lowest No.	Male	Female	Total	Male	Female	Total
CENTRAL JAIL	“Imprisonment for more than 2 years.”	144	Delhi (14)	“Arunachal Pradesh, Meghalaya, A & N Island, D & N Haveli, Daman & Diu, Lakshadweep” (0)	2,02,547	6,731	2,09,278	120%	96%	119%
DISTRICT JAIL	“Have a capacity of approx. 500 prisoners & serve as main jails in the state where there are no central jails.”	404	Uttar Pradesh (61)	“Goa, Chandigarh, D & N Haveli, Daman & Diu, Delhi, Lakshadweep, Puducherry” (0)	1,98,408	8,110	2,06,518	136%	83%	132%

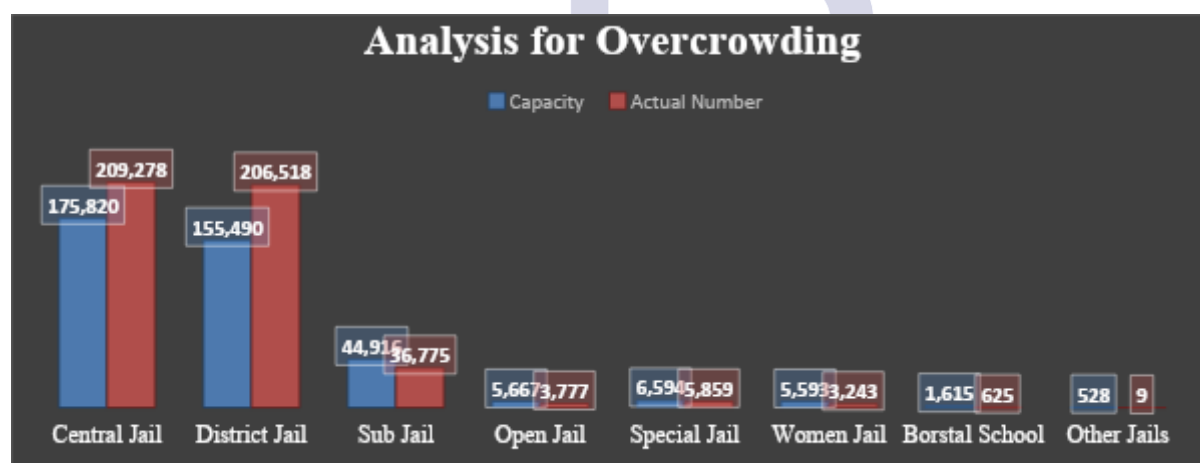
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SUB JAIL	“Sub jails are smaller institutions situated at a sub-divisional level in the States.”	628	Tamil Nadu (96)	“Arunachal Pradesh, Goa, Haryana, Meghalaya, Mizoram, Nagaland, Sikkim, Chandigarh and Delhi” (0)	35,972	803	36,775	88%	18%	81%
OPEN JAIL	“Open jails a minimum-security prisons”	77	Rajasthan (31)	“Arunachal Pradesh, Chhattisgarh, Goa, Haryana, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura & Uttar Pradesh and all the UTs” (0)	3,651	126	3,777	65%	105%	66%
SPECIAL JAIL	“Special jails are maximum security prisons for the confinement of a particular class or particular classes of the prisoners”	41	Kerala (16)	“Assam, Jammu & Kashmir, Karnataka, Maharashtra & Rajasthan” (1)	5,639	220	5,859	92%	42%	88%
WOMEN JAIL	“Women's jails are prisons that exclusively house female prisoners.”	24	Tamil Nadu (5)	“Andhra Pradesh, Gujarat, Karnataka, Maharashtra, Mizoram, Odisha, Punjab, Telangana, Uttar Pradesh, West Bengal” (1)	Nil	3,243	3,243	nil	57%	57%

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BORSTAL SCHOOL	“Borstal Schools are a type of youth detention centre and are used exclusively for the imprisonment of minors or juveniles”	19	Tamil Nadu (12)	“Himachal Pradesh, Jharkhand, Kerala, Maharashtra, Punjab, Rajasthan, Telangana” (1)	616	9	625	38%	75%	38%
OTHER JAILS	“Jails that do not fall into the categories discussed above overall under the category of Other Jails”	2	Kerala & Maharashtra (1)	“Rest of India” (0)	9	0	9	1.70 %	0	1.70%

Diagram 1



ANALYSIS OVERCROWDING

1. CENTRAL JAIL

Diagram 1 depicts overcrowding in the central jails to a considerable extent. The occupancy rate of Central Jail at the National level is 119% which depicts overcrowding. The Prison population in central jails were controllable at the end of the year 2018 in 13 States and 2 UTs as the habitancy rate in these States/UTs (Punjab, Bihar, Chandigarh, Mizoram) remained less than 100% whereas 14 States and 1

UT have reported more than 100% habitancy rate. Chhattisgarh has reported the highest overcrowding (196.1%) followed by Maharashtra (170.7%) and Delhi (159.3%).

2. DISTRICT JAIL

It is evident from Diagram 1 that this type of jail reflects overcrowding which is at a rate of 132.8%. The Prison population in District jails were controllable at the end of the year 2018 in merely 10 States/UTs (Karnataka, West Bengal, Punjab, A & N Islands) as the habitancy rate in these States/UTs remained less than 100% whereas 18 States have reported more than 100% habitancy rate (U.P., Haryana, Maharashtra, H.P.).

3. SUB JAIL

Diagram 1 does not depict overcrowding under this category as the occupancy rate is 81.9%. The Prison population of Sub - jails were controllable at the end of the year 2018 in 12 States and 5 UTs as the habitancy rate in these States/UTs (Daman & Diu, Jharkhand, Punjab, Chhattisgarh) remained less than 100% whereas 9 States have reported more than 100% habitancy rate (Uttarakhand, Assam, Uttar Pradesh, Kerala, Gujarat).

4. OPEN JAIL

Overcrowding under this category cannot be seen in Diagram 1 as the occupancy rate is 66.6%. However, West Bengal (114.6%) have reported the highest overcrowding in open jails, followed by Bihar (93.3%).

5. SPECIAL JAIL

Diagram 1 does not depict overcrowding under this category as the occupancy rate is 88.9%. However, Kerala (162.9%) has reported the highest overcrowding in Special jails, followed by Jammu & Kashmir (131.1%) and West Bengal (117.3%).

6. WOMEN JAIL

No trace of overcrowding is visible under this category in Diagram 1 as the occupancy rate is 58%. However, Maharashtra (159.2%) has reported the highest overcrowding in Women's jails, followed by West Bengal (142%) and Bihar (107.9%).

7. BORSTAL SCHOOL

This category is nowhere near overcrowding as the occupancy rate is 38.7%, and none of the States/UTs shows overcrowding. The highest number of inmates were lodged in jails of Punjab (284) followed by Tamil Nadu (225) and Kerala (59).

8. OTHER JAILS

This category too is nowhere near overcrowding as the occupancy rate is 1.7%, and none of States/UTs shows overcrowding.

APPRAISAL

The central and district jails depict an alarming rate of overcrowding. The inmates lodged in sub jails and the special jails are currently within the prison capacity but with the rising crime rate, the inmates in these jails too may cross the maximum capacity. Open jail, women jail, borstal school, and jails currently seem nowhere nearing to the issue of overcrowding in prisons. Despite these observations and figures mentioned in Table 1 and Diagram 1, overcrowding may vary on day-to-day and jail-to-jail criteria.

II. GENDER

Gender constitutes such a pedestal in society that any and every aspect of today's world reflects a trace of gender into the extent that ha-living things are categorized based on gender during the speech.

In the text of prisons, Table 1 and Diagram 1 reflect the aspect of gender in induced that women commit fewer crimes than men as the prison that is ex in the context of prisons inclusively for females, 'The Women Jail' is nowhere close to overcrowding, and the number is well within its capacity. In addition, under the number of inmates in other types of prisons, the number of females is not even half of those of males.

The reassess kinds of numbers can be rooted down to the classical era when a man was known as the 'bread-winner' of the family and the woman, the 'home-maker'. It can be implied that the breadwinner is bound to be harsh and shrewd in this world, and the homemaker is bound to be brimming with emotions. Thus, it can be interpreted that a woman in most cases is bound to commit a crime because of being overwhelmed by the emotions or out of desperation whereas a man commits due to ego, revenge, or vengeance.

This reasoning cannot be considered as ultimate the lower numbers but can certainly stand as one in this context as Lombroso, the pioneer of the positive school of crime However, it can, also advocated that women were less inclined to criminality because of constitutional and psychological factors.

In the aspect of facilities in the prisons, the following sections are stated in the Prisons Act, 1894:

“SECTION 24. PRISONERS TO BE EXAMINED ON ADMISSION.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.”

“SECTION 27. SEPARATION OF PRISONERS.

The requisitions of this Act concerning the separation of prisoners are as follows: —

- (1) in prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners.”

Section 27 is related to the ‘**principle of differential association**’ given by ‘**Edwin Sutherland**’ that criminal behavior is learned and not inherited.

These sections go on to show cases are given special status as compared to ten and are an important essential of cons in the prison premises. Also, since **Section 7** falls under the head ‘**Discipline of Prisoners**’, providing the women with their personal space is an essential aspect to maintain the discipline of the prison premises.

III. REHABILITATION OF PRISONERS

The elementary aim of prison administration is the reformation and rehabilitation of offenders. To meet the same, numerous States/UTs being under the direction and superintendence of the Central Government have been taking various initiatives in the field of welfare and rehabilitation of prisoners. Central Government via “Ministry of Home Affairs” is administer in crimes to improve prison improvement prominence on hygiene condition and organize national and international conferences improve administration for awareness building among prison staff.

In the aspect of rehabilitation of prisoners, the following sections are stated in the Prisons Act, 1894:

“SECTION 11. SUPERINTENDENT.

- (1) Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.”

“SECTION 15. REPORT ON DEATH OF THE PRISONER.

On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely: —

- (2) the labour, if any, on which he was engaged on that day.”

“SECTION 34. EMPLOYMENT OF CIVIL PRISONERS.

(1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings such are charged furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.”

“SECTION 35. EMPLOYMENT OF CRIMINAL PRISONERS.

(1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day²) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of the opinion that health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour on such other kind or class of labour as the Medical Officer may consider suited for him.”

“SECTION 36. EMPLOYMENT OF CRIMINAL PRISONERS SENTENCED TO SIMPLE IMPRISONMENT.

The Superintendent shall make provision for the employment of provisional criminal prisoners sentenced to simple imprisonment, but no prisoner sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as established. However, no rules of the prison in the comparison rules by such a prisoner.”

“SECTION 45. PRISON-OFFENCES.

The following acts are declared to be prison-offences when committed by a prisoner: —

(5) willfully disabling himself from labour;

(6) contumaciously refusing to work.”

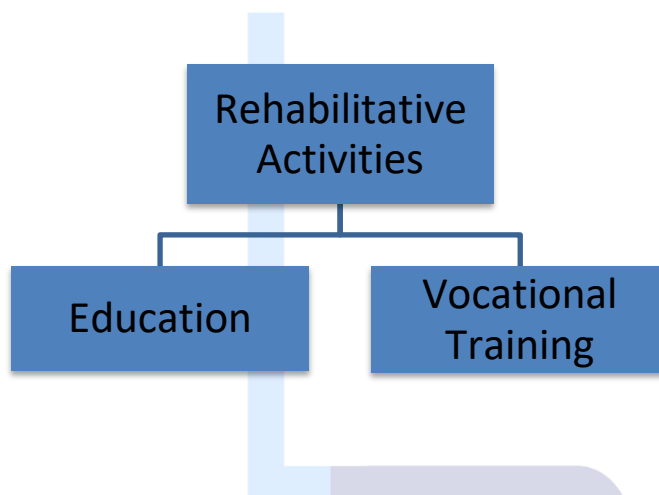
“SECTION 46. PUNISHMENT OF SUCH OFFENCES.

The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by—

(3) Hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment.”

All the above stated sections go on to prove that involving the inmates in some task or the other for their reformation is of utmost importance to the frustration on as the aspect of ‘labour’ is mentioned in almost every import an critical.

Various practices have been adopted/ shared by the States/UTs out of which this paper focusses on the following two:



Education

Imparting education to jail inmates not only contributes towards a corrective approach to the psyche of the also goes a long way in inculcating a responsive and respectful a standards society. Following is the statistical data concerning the types of education imparted across different states.

Table 2: Education	
Type of Education	No. of Prison Inmates Educated
Elementary education	53,009
Adult education	40,122
Higher education	14,380
Field of Computers	8,443
Total	1,15,954

Diagram 2

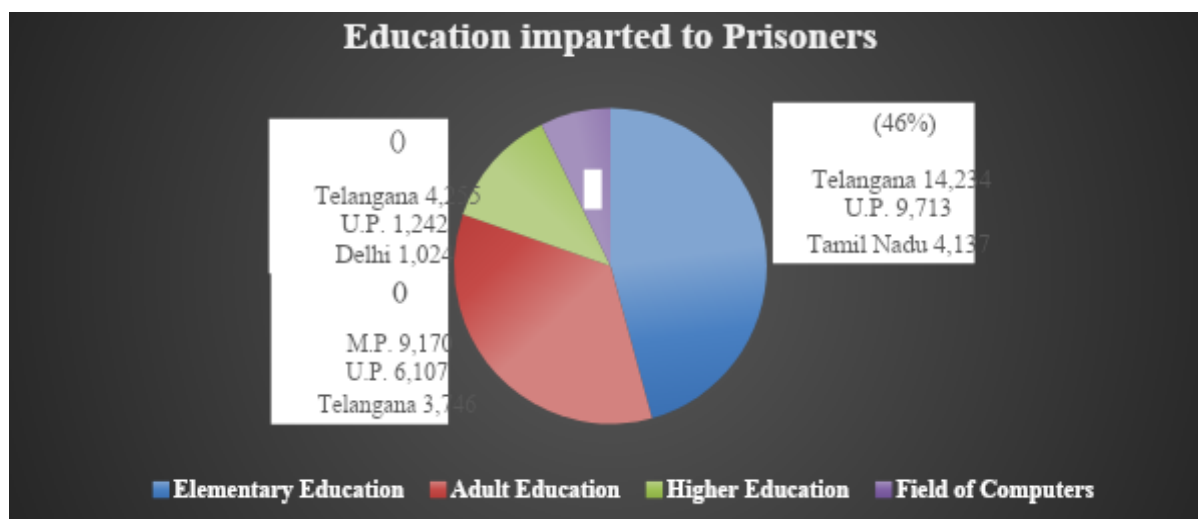


Table 3: Initiatives undertaken by States/UTs in the field of education

Educational Programmes in Prisons		Library Facility in Prisons	
States/UTs	Description	States/UTs	Description
Andhra Pradesh	<p>“Secondary Education is being imparted the by National Institute of Open School (NIOS).</p> <p>Graduation & Post-Graduation are being imparted by Open Universities, i.e. Ambedkar Open University & Andhra University.</p> <p>Special remission is being awarded to those prisoners who are successful in exams.”</p>	Andhra Pradesh	<p>“Digital Libraries have been established at all the Central icons,ons, i.e., Visakhapatnam, Rajamahendravaram, Kadapa and Nellore.”</p>
Manipur	<p>“Primary/Basic education to the inmates</p> <p>An IGNOU Special Study Centre has been started in Manipur Central Jail, Sajiwa to provid opportunity for education to the different categories of inmates.”</p>	Manipur	<p>“Library has been set up for providing reading facilities to the inmates.”</p>

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Jammu & Kashmir	<p>“Special Study Centres of IGNOU have been established.</p> <p>Education through distance mode is also prod to the willing prisoners.”</p>	Nagaland	A large number of English and Hindi books are made available to the inmates.”
Maharashtra	<p>“Primary education classes</p> <p>Computers aided Adult education</p> <p>Higher Education Degree Courses Conducted by Yashawantrao Chavan Maharashtra Open University and IGNOU.”</p>	Sikkim	“Regular supply of newspapers and materials of entertainment is being provided to the prisoners’ barra,cks, and there is access to the prison library.”
Delhi	<p>“In the field of Education, <i>Padhoaur Padhao</i> scheme is launched in collaboration with the h Ministry of HRD, Govt. of India for illiterate inmates.</p> <p>Permanent study centers of NIOS & IGNOU are established inside the jail campus, for prisoners who want to pursue further studies.”</p>	Delhi	<p>“Library facility with newspapers and magazines is provided to the prisoners.</p> <p>Legal library and computers etc. are also provided.</p> <p>The e-libraries are being established in Delhi Jails for the benefit of prisoners.”</p>
Chandigarh	<p>“Adult Education Department U.T. Chandigarh is running three adult education centers, two for male inmates and one for female inmates.</p> <p>Illiterate inmates are provided education up to Middle Standard.</p> <p>Higher Education is provided to inmates through NIOS and IGNOU.</p> <p>Illiterate or school dropout Inmates are taught by educated inmates who are Peak.</p> <p>A <i>nukkad natak</i> was also organized to motivate the inmates to get an education.”</p>		

Vocational Training

Training is one of the essential rehabilitation measures in prison reforms. These days training of inmates in vocational skills in the Prison Institutions has received much credit in all the States/UTs. Following is the statistical data about various training programs across different states.

Table 4: Vocational Training		
Vocational Programme	No. of Prison Inmates Trained	States/U.T. Specific
Weaving	5,015	Madhya Pradesh (959) Gujarat (916) Telangana (913)
Tailoring	3,939	Gujarat (719)
Carpentry	3,057	Telangana (815) Gujarat (481) Maharashtra (328)
Agriculture	1,540	Madhya Pradesh (444) Punjab (372) Uttar Pradesh (120)
Canning	656	Assam (520)
Making of soap & phenyl	636	Telangana (158) Uttar Pradesh (89)
Handloom	572	Maharashtra (316) Madhya Pradesh (160)
Others	39,011	Delhi (9093) Andhra Pradesh (3137)
Total	54,426	

Diagram 3

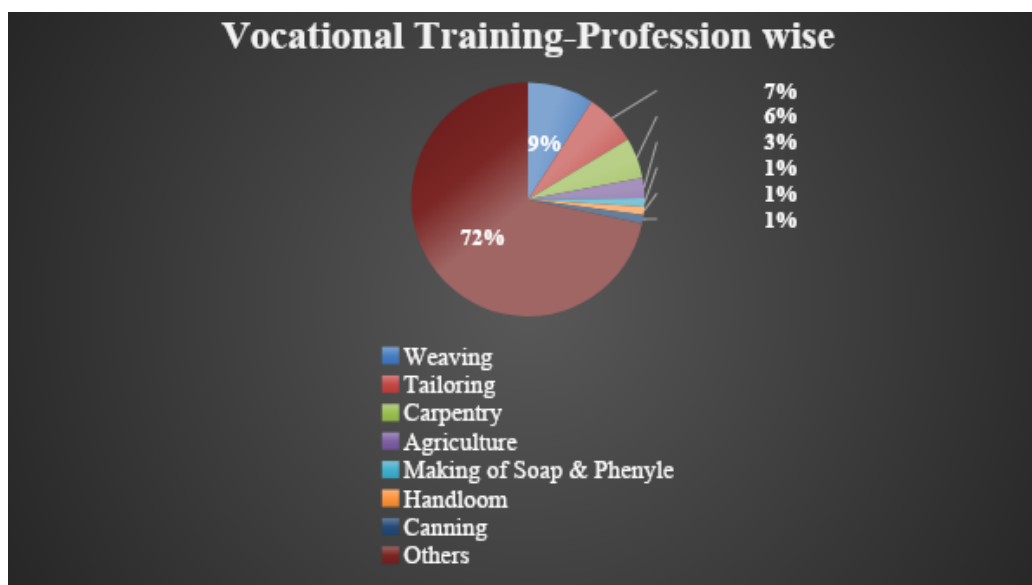


Table 5: Vocational Programmes in Prisons

States/UTs	Description
Andhra Pradesh	<p>“For imparting Computer training to the prisoners, computers are provided in all Central Prisons and Special Prison for Women, Raja Mahendra Verma</p> <p>New training programs have been introduced at various Prisons in the form of Fly Ash Brick making, Note Book Making, Bakery Products, Dairy, Fuel Outlets and Savories making units at Central Prisons, Prisoners’ Agricultural Colony, Sub Jail.</p> <p>A new Retail Petrol Outlet was established in the premises of District Jail, On.”</p>
Manipur	<p>“The male prisoners lodged in Manipur Central Jail, Sajiwa are taught the art of making of plastic morah (sitting stools) to enable them to earn their livelihood with the skills after their release from Jail.</p> <p>Female inmates lodged in Manipur Central Jail, Imphal are imparted tailoring and embroidery.</p> <p>The method of making of droop, dolls a dishwashing dish washing detergent powder and liquid is also imparted to the female inmates so that they can earn their livelihood after their release from Jail.”</p>
Jammu & Kashmir	<p>“Candle Making, Electric Trade, Bamboo Art, Weaving, Hair Cutting, Embroidery, Cutting & Tailoring and Carpentry”</p>
skill-based	<p>“Species of training pieces of training such as stitching, electrician, two-wheeler mechanic, paper bag making, beautician etc. are provided to inmates.</p>

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	<p>Advanced fashion designing course was conducted in Yerwada Prison, Pune with raw material support provided by the Department of Prisons.</p> <p>Vocational Training in industrial trades - Carpentry, Fabrication, Bakery, Paper Work, Textile, Tailoring, Chemical & Leather etc. are being imparted to the prisoners.</p> <p>Employment in automobile, wire harness, lock, assembly as finishing the of metal casting, weaving of Paithani silk sarees a handle areas sarees are given to the prisoners.</p> <p>Vocational training in Mushroom Production, Biogas production, Goat farming, fisheries, poultry farm and other agricultural. activities”</p>
Delhi	<p>“Hero Motors Cycles Repairing Centre is operational in Delhi Prisons. Trainers from Hero Honda Motor Cycles impart training to the inmates.</p> <p>LED bulb assembling training classes are conducted in jails to train the inmates.</p> <p>The female prisoners taught courses like, stitching, weaving, java making, fashion jewellery, jute products, crècmal ware are, embroidery, envelope making, pottery ,Ryanaa, candle making, namkeen making, artificial flowers, herbal pack, dhoop agarbatti making, pickles, papad making, beauty culture and painting.</p> <p>The other activities out in the female prison are Computer Literacy, English Speaking Course, Drawing, Painting and Dance classes.</p> <p>Pearl Academy is also conducting fashion designing classes for women.”</p>
Nagaland	<p>“Inmates are imparted skills on handicrafts like basket making, bamboo stool l, a sling for gunny Murrahurrah, decorative interior things, plates, spoons etc.”</p>
Punjab	<p>“Vocational training is provided to convict prisoners in various jails in trades like carpentry, weaving, embroidery, stitching, electrician, welding, plumbing, garden book binding indexing, denting painting, motor winding, agriculture training, computer training, beauty parlour court hair dressings , floor mill operations, cutting and tailoring, preparing of soap, cooking etc.”</p>

LRJ- ALLYING LAW WITH SOCIETY

APPRAISAL

In the aspect of from Tables 2 and 3 and Diagram 2 that in the states where this is prevalent, the prison inmates are being imparted knowledge, learning and schooling of different levels through institutes likes IGNOU and NIO like Concept of libraries provide did of newspapers and reading material is also catching up in various prisons across the country to instill the importance of education in he aspect of vocational training, a variety of have been observed from Diagram 3 and the data provided above. These also depict that the nature of programs has changed with the evolution in times, have become modernized with the development in technology and are no longer restricted the traditional programs. Moreover, it can also be deduced from Tables 4 and 5 that the vocational programs a state are area faith inmates get instant employment in the various fields available in the market and do not inculcate the feeling of being skill deprived or left out of the society. For instance, in metropolitan cities like Delhi and technologically-advanced states like Maharashtra, it can be observed that the vocational programs are inclusive of repairing of motor cycles of assembling of LED bulbs, skill-based training and for female inmates, English speaking and fashion designing courses.

IV. DEATHS AND ILLNESS IN PRISONS

The Death of an inmate is always a matter of imperative nature for prison administration. Seldom such deaths lead to law-and-order disruption. “Sections 13, 14, 15, 17 and Chapter VIII of the Prisons Act, 1894” are all in this context, defining officers' duties and the procedure involved concerning the medical health of the prisoners.

“SECTION 13. DUTIES OF MEDICAL OFFICER

Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such 2 duties as may be prescribed by rules made by the State Government under section 3.”

“SECTION 14. MEDICAL OFFICER TO REPORT IN CERTAIN SOME INSTANCES

The Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper. This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.”

“SECTION 15. REPORT ON DEATH PRISONISOANER

On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely: —

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day,
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of the disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
- (8) when the prisoner died, and
- (9) (in cases where a post-mortem examination is made) an account of the appearances after death, together with any special remarks that appear to the Medical Officer to be required.”

“SECTION 17. JAILER TO GIVE NOTICE DEATH OF A PRISONER

Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.”

“SECTION 37. SICK PRISONERS

- (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, widely reported by the officer in immediate charge of such prisoners to the Jailer.
- (2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoners desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.”

“SECTION 38. RECORD OF DIRECTIONS OF MEDICAL OFFICERS

All directions given by the Medical Officer or Medical Subordinate about any prisoner, except for orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or such other record as the State Government may by rule direct. The Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having

been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry.”

“SECTION 39. HOSPITAL

In every prison, a hospital or proper place for the reception of sick prisoners shall be provided.”

Deaths in jails have been categorized into, two i.e., Natural deaths and Unnatural deaths which are statistically discussed as follows.

Table 6: Natural and Unnatural Deaths

Natural Deaths			Un-Natural Deaths				
Ageing	Illness	States/UTs	Suicide	Murder by Inmates	Accidental Deaths	Deaths due to Negligence & Excesses	States/UTs
	Heart related Ailments	Uttar Pradesh (426); Madhya Pradesh (133); Maharashtra (127)	Hanging	Firing	Forces of Nature-Natural Calamity	(i) Negligence by -	Punjab (28); Uttar Pradesh (17); Tamil Nadu (12); West Bengal (12)
	Lung related Ailments		Self-Inflicted Injury	Lynching	Forces	Jail Staff	
	TB		Poisoning	Stabbing	Electrocution	Jail medical Staff	
	Cancer		Electrocution	Fighting	Drowning	Police Staff	
	Liver related Ailments		Others	Others	Accidental Fall	Outside hospital medical Staff	
	Brain Haemorrhage				Burn injuries	(ii) Excesses (torture) by Jail personnel	

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	Kidney related Ailments				Road/train accident (during transit)		
	HIV				Drugs/Alcoholic Consumption		
	Other ailments				Animal bite		
					Others		

Diagram 4

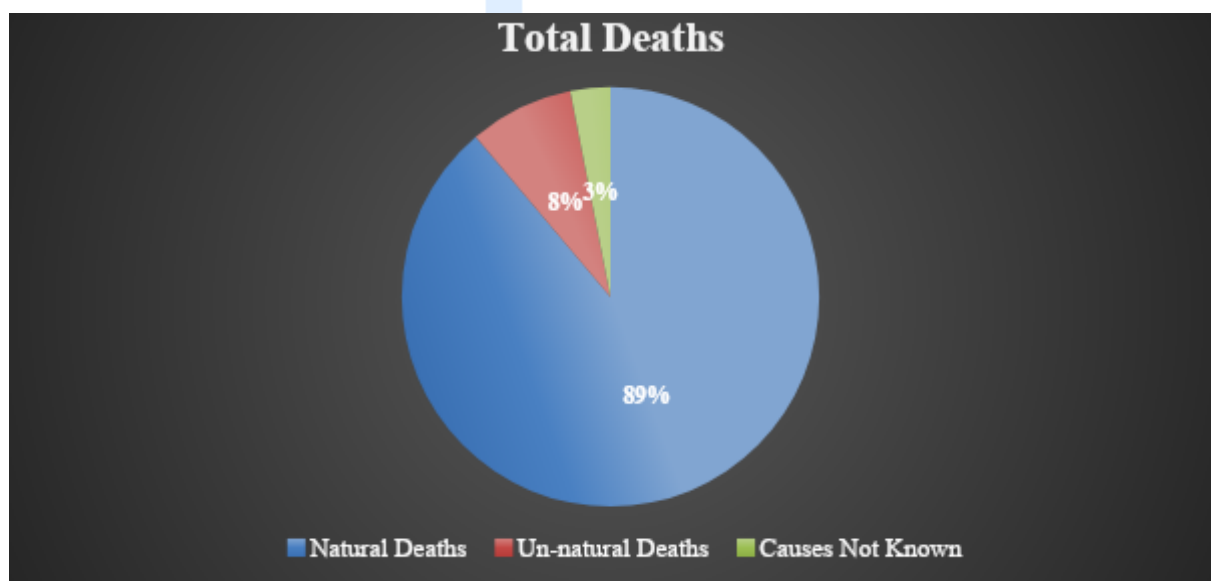


Diagram 5

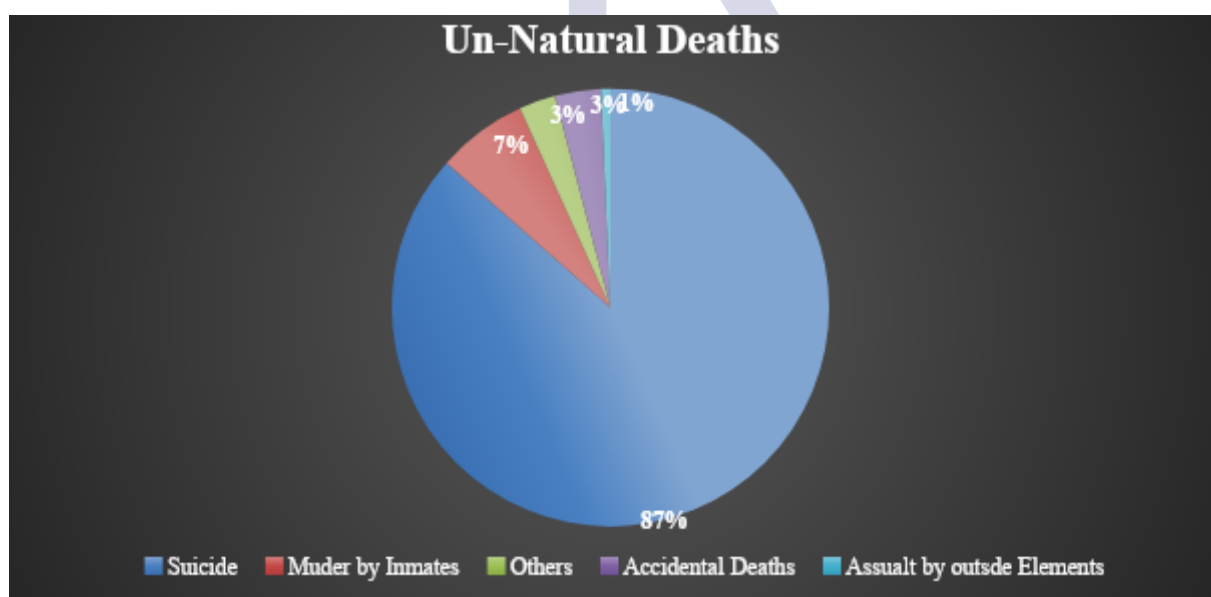
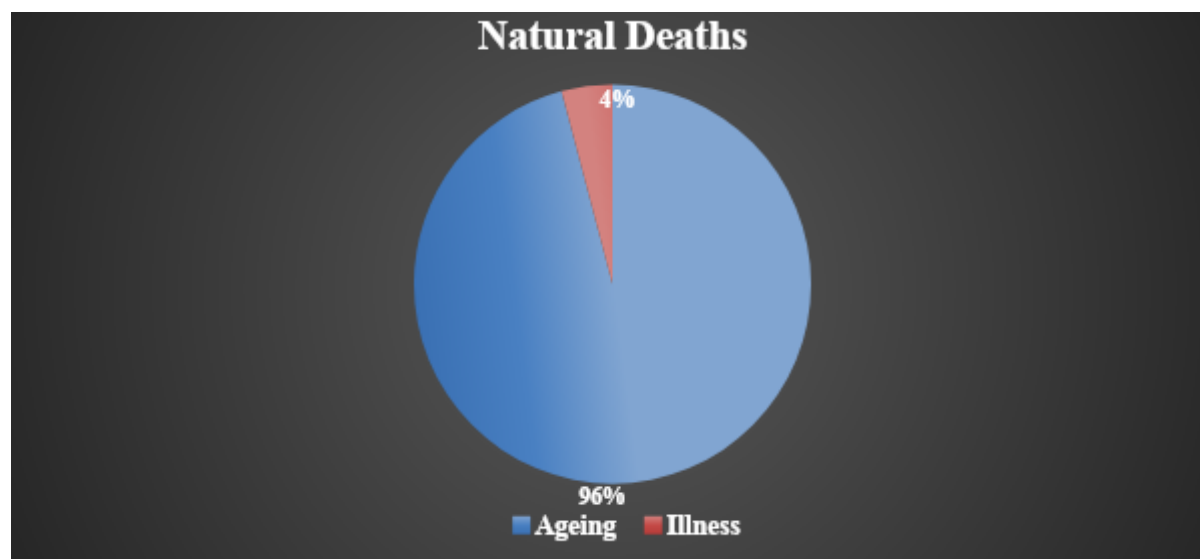


Diagram 6



APPRAISAL

As recorded in the NCRB data, “a total of 1,845 prisoners have died, while they were in judicial custody during 2018, in the country, out of which 1,639 were natural deaths this 149 were due to ton to unnatural uses and 5,7 deaths were reported as causes not known yet. Natural deaths accounted for 88.83% and Un-Natural deaths accounted for 8.08% of the total deaths. Out of the 1,639 Natural deaths, there were 1,559 deaths due to Illness and 80 deaths due to Ageing. Among the unnatural causes of deaths in prisons, Suicide was the predominant cause followed by Murder by Inmates, Accidental Deaths, Others and Deaths Due to Assault by Outside Elements.”²²

The high rate in natural deaths due to illness can be attributed to many reasons out of which the prime reason could be overcrowding in prisons leading to unhygienic living conditions and ultimately causing a rise in the number of diseases. Also, under the category of unnatural deaths, the number of suicides committed by the inmates is the highest amongst other causes as it can be interpreted that mental shock, unacceptance and fear of the society can be the prime reasons for such a decision. These observations can be understood statistically through Table 6 and Diagrams 4, 5 and 6.

²² Prison Statistics India 2018, National Crime Records Bureau, Ministry of Home Affairs, Government of India.

COVID-19 IN PRISONS: IS INDIA DOING ENOUGH?

On 16 March, the Supreme Court asked the states and union territories on their plans to avoid covid-19 spread in prisons. At the time, most states showed their willingness to release specific categories of prisoners on bail and parole. The idea was to decongest the 1,401 prisons in the country, which, according to “2018 National Crime Records Bureau (NCRB)” data, were packed with around 450,000 people, nearly 60,000 over the sanctioned capacity. As of 30 June, nearly 805 jail staffers and inmates have tested positive for covid-19 across jails in the country, as per “Commonwealth Human Rights Initiative (CHRI)”.²³

Prisons institution in India with their crowded space and insufficient healthcare facilities pose an extreme risk of becoming epic centers for the spread of COVID-19. The Hon’ble Supreme Court of India directed States/ UTs to establish a “High-Powered Committee” to ascertain prison inmates' categories to be released on interim bail/ parole or furlough to minimize overcrowding in prisons.

The Court advised the categories below for consideration of release:

“Prisoners who are convicted/undertrial for one offence for which the sentence is up to seven years.

Any categories identified by the High-Powered Committee based on the nature of the offence, duration of the sentence and severity of the offence.”

“Commonwealth Human Rights Initiative” tracks orders issued by the “High-Powered Committees” across states, categories of prisoners identified for release and the estimated vs actual number of releases across the country.²⁴

New articles have suggested specific steps to combat the spread of the pandemic within jails:

“Prisons must ensure weekly visits by doctors.

All wards, barracks and common areas must be cleaned daily with water and disinfectant.

Thermal thermometers should be supplied to monitor visitors and staff, and washbasins and hand wash facilities placed at entry and exit points.

Additional mobile toilets should be set up (if required) and drinking and bathing water facilities augmented by water tankers.

²³Omkar Khandekar, *Covid-19 in Prisons* (August 2, 2020, 5:30 PM), <https://www.livemint.com/mint-lounge/features/covid-19-in-prison-is-india-doing-enough-11594096672458.html>

²⁴ *State/UT Wise Prisons Response To Covid 19 Pandemic In India* (August 2, 2020, 5:30 PM), <https://www.humanrightsinitiative.org/content/state&ut-wise-prisons-response-to-covid-19-pandemic-in-india>

Sufficient supply of bathing and washing soaps, and Sanitary pads should be provided to women prisoners.

An improved diet must be provided to pregnant women, lactating mothers and children in prisons.

A supply of cloth sanitizers, sanitizers for and prison staff must be ensured.

New admissions to the prison should be screened and kept in an isolation ward for 14 days.”²⁵

Reports suggest that “these are unprecedented times and they call for unprecedented measures. No law's spirit to lead from the front than the times we are in right now. The primary onus lies on the judiciary, under whose custody, prisoners are lodged. It is up to the judiciary to rise to the occasion and put measures to ease the burden on the system. ‘Innocent until proven guilty’ —the very core of judicial principles, needs to be applied now more than ever.”²⁶

CONCLUSION

Prisons are in a bureaucratic setup and cannot function without records. Records are essential for the generation of crime statistics and rates at which custodial violence is committed and maintaining a medical history to analyze the death rate and its causes, in short, everything that this paper has catered to.

Emile, Durkheim in his book “Crime as a Natural Phenomenon” said, “A society composed of persons with angelic qualities would not be free from violations of the norms of that society”. In other words, he simply normalized the aspect of crime part in the society.

Moving on the same lines the society needed the “Panopticon Model of Prisons” by Jeremy Bentham, an exponent of the classical school of criminology. When the model came up, the convicts were treated as a novelty and were punished through abhorrent practices.

The basic principle for the model's design as presented by Bentham was “to monitor the maximum number of prisoners with the fewest possible guards and other security costs. The layout consists of a central tower for the guards, surrounded by a ring-shaped building of prison cells. The building with the prisoners is only one cell thick, and every cell has one open side facing the central tower. This open side has bars over it, but is otherwise entirely exposed to the tower. The guards can thus see any

²⁵ Vijay Raghavan and Madhurima Dhanuk, Covid-19: Ensure prisons do not turn into a fertile ground for the virus, (August 2, 2020, 6:30 PM), [hindustantimes.com/analysis/covid-19-ensure-prisons-do-not-turn-into-a-fertile-ground-for-virus/story-MVJdQa0f2GwwyCojTwQA3L.html](https://www.hindustantimes.com/analysis/covid-19-ensure-prisons-do-not-turn-into-a-fertile-ground-for-virus/story-MVJdQa0f2GwwyCojTwQA3L.html)

²⁶ Cecilia, Kishor & Siddharth, How Prisons And Prisoners Must Deal With The Pandemic (August 2, 2020, 8:00 PM), <https://www.theweek.in/news/india/2020/05/22/how-prisons-and-prisoners-must-deal-with-the-pandemic.html>

cell's entirety at any time, and the prisoners are always vulnerable and visible. Conversely, the tower is far enough from the cells and has sufficiently small windows that the prisoners cannot see the guards inside of it.”

Bentham’s architectural principle, “The Panopticon” is a manifestation of a Christian belief that God is ever-pervasive and spying and should engulf one from all sides. His sole objective was to design a system wherein absolute control of the other’s mind can be taken by one being.

Getting into the depth of this, the reason behind this intricate architectural design, is *res ipsa loquitur*²⁷. The solitary reasoning of monitoring the inmates is to deduce their movements, activities, and entire lifestyle into numbers, tables, and graphs with the rationale of record-keeping, comparisons, or indexing.

This concept of indexing is also clearly reflected in Section 38 of the Prisons Act, 1894.

As India moves into a much worse position since the first lockdown, we can look in retrospect and analyses what could have been improved. Up till now, the national narrative has focused on “flattening the curve, saving employment, fighting hunger and guaranteeing the right to health to all the people”. However, one narrative which has been least discussed (if not left out) is that on “prisoners’ rights”.

The Hon’ble Supreme Court’s order and the feedback of the State’s feedback seem in the grand narrative of prison rights. The situation has brought to light two major issues:

“The first being, the infructuous nature of the provisions of the Model Prison Manual, 2016 which were once drafted to tackle an epidemic.

The second I was and being the ignorance towards the mental health of prisoners by the State. This, despite the recognition of mental health as a right through legislative provisions as well as through judicial mandate.”²⁸

The COVID-19 pandemic has thrown life out of gear for the general population in ways that none of us could ever have fathomed. The chaos, the challenges emerging daily, perhaps even on an hourly, basis has been tough to grapple with. In the midst of it all, there is a population that even in the best of times, receives the least attention—individuals lodged in prisons and several other such closed institutions. One may perhaps argue that the Supreme Court and state High Courts, the National Commission for Women and several other such relevant bodies, have passed orders for prisoners’ release and given guidelines relevant to prevention and control of the pandemic. However, the outbreak

²⁷ Legal Maxim. English translation – The thing speaks for itself.

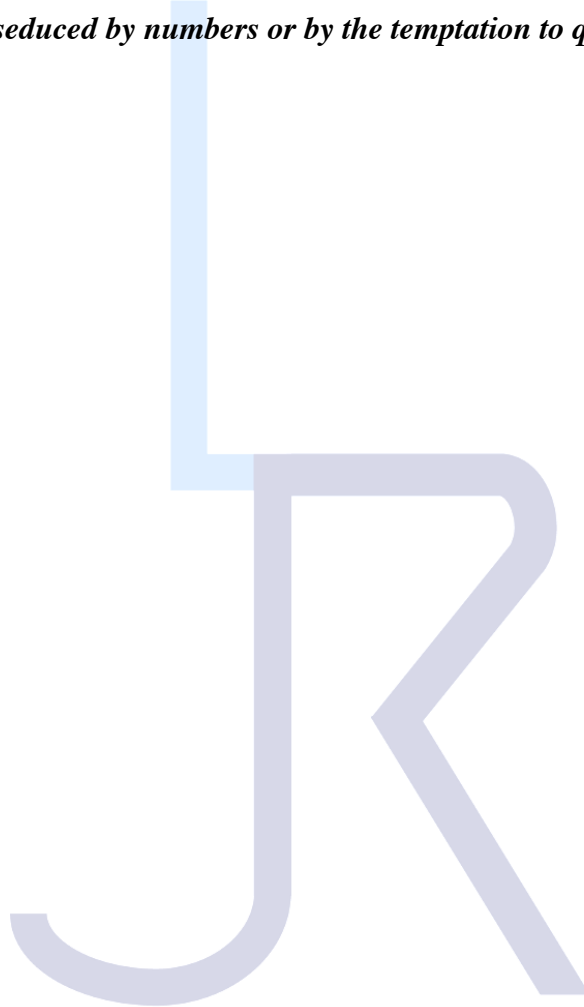
²⁸ Shubham Airi, Shivkrit Rai, How Indian Prisoners Stand To Lose The Most During Coronavirus Pandemic (August 1, 2020, 5:30 PM), <https://www.outlookindia.com/website/story/opinion-how-indian-prisoner-stand-to-lose-the-most-during-coronavirus-pandemic/351521>

of COVID-19 in Arthur Road Jail and the Jaipur District Jail raises certain pertinent questions as regarding sufficiency of these measures.²⁹

The sole purpose of framing statistical records is to **‘invisible’ prisoners into numbers**, so that the aggregate information becomes available and also to make these institutions accountable for any activities that take place in the prison premises so the Human Rights Commission need not rely only on the testimonies of the prisoners.

Thus, all these figures, statistics and analysis, nevertheless keep the question lingering that,

“Are we seduced by numbers or by the temptation to quantify?”



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²⁹Id. At 6

VIOLATION OF RIGHTS OF CHILDREN AND WOMEN DURING COVID-19

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On 24 March 2020, the government of India imposes nation-wide lockdown as a preventive measure to control the outbreak of coronavirus, restricting the people to move out of their houses except for availing the essential services. The practice of home quarantine was followed among the citizens. This initiative by the government was believed to be the best ideology in order to safety of citizens' safety was the quarantine safe for everyone?

THE SHADOW BEHIND QUARANTINE

The mode of quarantine reunited the family under one roof and relived those family moments which were lost in this challenging and fast world. However, not everyone was fortunate to enjoy those stressful times. There were many individuals locked up in an abusive inland. Most of the victims were women and children whose freedom to step out of their houses only the sole way to escape this abusive environment, which was now no more accessible to them.

THE SAD REALITY OF LOCKDOWN

In amid of COVID-19, women, and children in India fought against coronavirus, as well as domestic violence and mental harassment. The confinement at home with an abusive partner is likely to result in greater physical and mental violence, with disastrous consequences for their health and well-being. It has been an all-time trend that whenever the family spends time together, such crimes increase.

If we look at the possible reasons behind this increased spike of the abuse, it is not only because of the frustration due to home confinement but un-element, poverty, hunger, and economic slowdown are some major reasons behind the same. Due to such reason's abusers have increased access to their victims. Moreover, victims have no access to the resources. Alcohol consumption by husbands or

fathers is an evidentiary fact for the increase in such abuses, and the heavy plight of victims to not being able to concerned authorities for help because of the strict governmental orders. Victim's right to live with dignity gets triggered here. Therefore, this alcohol-fuelled violence has increased the incidents of abusive lockdown. This can also be regarded as intimate terrorism, i.e., violence inside the home.

Another focal point here is that most of the victims are not aware of their rights. They are born in such an environment or society where every next door has the same story or family background, which makes them believe that such incidents are normal. It is a myth in our Indian society that such incidents take place only in the poorer sections of the society, which to some extent is however but domestic violence and torture exist in all parts of the society and women and children of higher sections of the society are no immune to it.

Another sad reality of our Indian society is that it suppresses the victims to such an extent that they fear to come out in the reach of help and claim their rights. In fear of facing societal obligations choose to remain silent and continue to suffer and sacrifice. Victims who are brave enough to complain to the concerned authorities represent the tip of an iceberg. With the sudden lockdown, when such victims find themselves isolated, alone and vulnerable, what options are they left with? Virtually none mainly talk about the children in need, when their parents or guardians are abusers, such victims have no way, out or mature enough to understand the violence and its nature to reach out for help. As a result of which, the abuser gets more audacity to perpetrate violence. The abuser's hardihood increases behind the closed doors, especially when he knows that this confinement will sustain for long enough. Also, in most of the cases, the abuser is the one known to the child. Children lack access to child care organizations and the inability to connect to a safe place as the abuser is around them and thus, they continue to be victimized. Child abuse and other exploitative practices such as child labour, child trafficking, child marriage, etc. have also been on its rise. Other inhuman situations like starvation and inadequate livelihood have worsened their situation.

STATISTICS

According to the relative data, there had been an alarming rise in domestic violence complaints against women. The complaints received during the lockdown period are more significant than the ones received in the last year. This indicated that the victims' level of abuse and torture during lockdown was so immense and frequent that the victims were forced to take a call for themselves. This also highlighted the mental conditions of those who never dared to reach out for help from years had been

pushed to such extent that they had to call the women helpline for rescue. Among these victims, 7% reached out to the police, lawyers or social service organization.

Another issue faced during the pandemic was that the several helplines and shelter homes for women and children were not available to call or live in, in both the government, as well as and sector.³⁰ The help that they the lockdown curtailed the help that they provide was restricted. Victims cannot travel to police stations nor the social-workers were able to reach them. The police were overburdened by COVID-19 duties too.

DIRECTIONS BY THE DELHI HIGH COURT

The Delhi high court recently directed the states and the Centre to take measure from domestic violence, following a petition filed by an NGO. The Centre, Delhi government and the national and state commissions of women submitted status reports on the action taken against domestic violence, including spreading awareness about helpline numbers, shelter or one-stop homes as well as the appoint, and protection officers, which the court reviewed on April 25³¹.

SIGNS THAT YOU ARE BEING ABUSED

1) PHYSICAL VIOLENCE³²

Illustration

- Slapping,
- Hitting,
- Kicking,
- Punching,
- Biting,
- Pushing and
- Inflicting pain and injury in any other manner

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³⁰ Dhamini Ratnam, *Domestic violence during Covid-19 lockdown emerges as serious concern* (27 July 2020, 6:30 PM) <https://www.hindustantimes.com/india-news/domestic-violence-during-covid-19-lockdown-emerges-as-serious-concern/story-mMRq3NnnFvOehgLOOPpe8J.html>

³¹ Phumzile Mlambo-Ngcuka, *Violence against women and girls: the shadow pandemic* (26 July, 2020, 3:32 PM) <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>

³² How to find Domestic Violence Counselling, Helplines and support In India (30 July 2021, 12:34 PM) <https://www.naaree.com/domestic-violence-helplines-india/>

2) SEXUAL VIOLENCE

Illustration

- Forcible intercourse,
- Compel one to look at pornography or any obscene content,
- Uninvited act of sexual nature to belittle or mortify you,
- Child sexual abuse.

3) ECONOMIC VIOLENCE

This issue is mostly ignored by many individuals which makes it the most prevalent

Illustration

- Stops you from pursuing your Job or Stops you from taking up a Job,
- Asks you to handover your salary and does not allow you to use it,
- Does not pay rent despite staying in a rented house,
- Restricts your access to any part of the house,
- Does not give you money to sustain yourself or your children,
- Does not provide you with food, medicine, clothes etc.

4) EMOTIONAL VIOLENCE

Illustration-

- Allegations on your character,
- Name-calling,
- Disparaging for not bringing Dowry,
- Disparages for not being able to reproduce male child,
- Restraining you from pursuing your education/career,
- Forcing you to marry someone against your will,
- A threat to commit suicide and
- Any other verbal abuse.

Lastly, if you change your habits and personality due to your partner's terror, you are being abused.

SOLUTION

1) EDUCATE WOMEN ABOUT THEIR RIGHTS

Today we have so many stringent laws enforced for the protection and betterment of the citizens like the Protection of Women from Domestic violence act 2005, The Indian Penal Code Amendment in 1983 etc. However, the question here is, despite all these laws, why do we see that almost 84% of women have been abused in their home at least once according to a 2015 study conducted by the Planning Commission of India?

The answer to this would be - not being aware fundamental their basic rights. Laws like “Protection of women acts” were being passed to view the Fundamental Rights guaranteed under Article 14, 15, and 21 to all the citizens. Furthermore, Article 21, which confers the Right to Life, has been held to include the “Right to Life with Dignity” and the “Right to be free of violence.”

Francis Coralie Mullin v. Administrator, Union Territory of Delhi and others 1981 AIR 746, 1981 SCR (2) 516

In this case, the Supreme Court stated any act which damages or injures or interferes with the use of any limb or faculty of an act, said to be freed from violence adhikar Article 21 prohibition is inside. Therefore, it states about Right to be Free of Violence.

Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan, (1997) 11 SCC 123

In the case mentioned above, the Supreme Court emphasized the fact that the Right to Life includes in its ambit the right to live with Human Dignity, basing its opinion on a host of cases that had been decided in favour of this proposition, i.e. The Right to Dignity³³.

From the above judgments, one thing can be inferred clearly and, i.e., every individual has a Right to lead a life with dignity and a life free of violence. For such an act to be executed, every woman needs to identify the signs of abuse and immediately so as to an end to such abuses. The most important thing here is that every female should realise the signs of domestic violence against them and should

³³ Dr. G. Indira Priya Darsini & Dr. K. Uma Devi, Domestic Violence Act - Fundamental Rights, (1 July 2020, 1:21 PM) <http://www.legalserviceindia.com/article/I353-Domestic-Violence-Act-Fundamental-rights.html> - google vignette

immediately taction about take action continuing to be victim deteriorating their mental health with the fear of social stigma and fretting about being ostracized.

To overcome this, we need to create legal awareness: -

(i) These things should be taught from a very young age to the young minds both boys and girls to recalibrate their thinking towards the treatment of their partners once they their partners' treatment the syllabus of the students to disseminate students' syllabus crowd in the most practical manner.

(iii) Religious institutions should address more about such issues in the more extensive mons, as a larger crowd can be swayed through them towards behaving in the right way.

2) PUBLIC GRIEVANCE REDRESSAL PLATFORM

The idea is wealth later not only to the rich and affluent but also to the poor and underprivileged therefore it is imperative to come up with such platforms that should be less uneconomical and more efficient in providing Justice to the sufferers. Since we are all aware that it takes years and years for the judicial system to come up with a final verdict and bearing in mind the high-costs involved for filing the pleas and lawyer fees which in turn leads to people trying to avoid approaching the courts and as a result they would continue enduring the torment. Therefore, such a platform should be made and advertised in such a manner so that it reaches every nook and cranny.

3) SOCIAL MEDIA INFLUENCERS

Today we live in a world where the social media influencers were making a fortune while the most educated graduates were struggling to meet ends. Today every individual regardless of their income, geographical location etc. have access to a smartphone. Moreover, after Jio came into the market, almost everyone has access to the internet. Now the most practical and efficient way of advertising the Helpline numbers, NGO'S or Public redressal platform is through the social media influencers, whom today have followers is significant lions and can create a great impact when they address such issues and make others aware of their Rights and Recourse when they come across such abuse.

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4) FINANCIAL INDEPENDENCE

The easiest way to control their partners is when they are financially dependent on them. At times partners tend to endure all the torment with the fear of not being a burden on their parents after the divorce, to curb this we should start with workshops that aim at teaching them a skill that can help

them make money in the future. “Educate an individual on how to earn and you would specific him, for life.”

There are certain ways through which an individual on their own, which will help them to be self-reliant and boosting self-esteem.

For example-

(i) Find work at the home business idea, for instance, if they are good at tailoring, they can start by taking orders in their own apart excellent.

(ii) If they are really good in any subject and can disseminate the concepts to another, they should become an online tutor with the online sites available in India.

(iii) Download Apps that pay you real money like Meesho, which deals in Reselling Products and has gamuchot of popularity lately. Now what happens here is that it sells various kinds of products on wholesale price where you can choose any product based on your requirement after which you can share it with your network on a margin price and as soon as they agree on purchasing the product you can place the order and keep the margin with you. Likewise, we even have apps where we can earn money with online teaching jobs like Wonk and so on.

Isn't it an easy source of making money without any hassle of capital investment and physical shop?

5) PSYCHOLOGICAL COUNSELLING & MEDITATION

(i) Psychological counselling should be normalised; chiefly in India, it is a stigma that people who go for psychotherapy are either mentally ill or the implication would be that they do not have strong faith in God which itself deters the sufferer from consulting a therapist. Primarily in today's time where we are burdened with unachievable expectations and the inability to fulfil the expectation it renders one in such a situation where we tend to vent out our anger on easy targets like wife, child or worker. So, to avoid such unwanted behaviour one, should consult a psychotherapist whatnot and come to an amicable solution³⁴.

³⁴Urmila Bhardwaj, *Domestic Violence Against Women Causes And Cure*, (12 July, 2020, 11:00PM), <http://www.legalservicesindia.com/article/1709/Domestic-Violence-Against-Women-Causes-And-Cure.html>

(ii) Meditation should be made a habitual process and especially during these times one must meditate as there are many health benefits to all our problems like it can generate kindness, it increases positive feeling, it Reduces Stress, Controls Anxiety so on and so forth. It is better to come home with a smile because it is not the wealth that you come home would satisfy them, it is your cheerful face that would satisfy them.

6) EMERGENCY HELPLINE NUMBER

The only thing the ones suffering here would want is to support more than anything else, they need people in front, and they can vent out whatever they want to without being judged because they are so vulnerable at this point due to the self-doubt, guilt, humiliation, and indecision as they love their partners and are fed up at the same time³⁵.

To handle such situations, we need to have: -

(i) One separate line for domestic violence counselling must be allotted in the police stations or any other NGO that should deal only with the cases of domestic violence cases 24/7 support through our crisis line.

(iii) The official that deal should be trained to be polite and chivalrous and must give her hope amid the misery.

(iv) The officials should reach the place as soon as possible to assess the situation and provide her protection if required, and if they want to leave, they should be told about the legal channels that can be availed by them³⁴.

Child they can even affected ones during these unpleasant times are children, it is the child who suff, and It for life. They are always in a predicament as they love both of them and when their parents fight it creates a very negative atmosphere around them and distresses them more than anything because of which there are times when they are engulfed with the fear that they might have to witness their parents' part their ways. A child is able to grow strong conically active when he is grown in a friendly, loving, and secure environment.

Children and youth who are exposed to violence emotional, mental, and social damage which will affect their developmental growth. Some children lose the power to feel empathy for others. Others feel socially isolated, unable to form friends as easily due to social discomfort or confusion over what

³⁵ How to find Domestic Violence Counselling, Helplines and Support in India, (2 August 2021 2:00 PM) <https://www.naaree.com/domestic-violence-helplines-india/>

is acceptable. In order to respond to the Tong issues associated with domestic violence, child welfare professionals need to understand these issues and know how to identify them as well as assess and supply treatment to children and youth suffering from violence, “A child is a result of all your actions³⁶.”

CONCLUSION

The root cause of this violence against women and children is powerlessness and subordination in households. Also, the lack of awareness due to high rates of illiteracy levels in women and children, as only 3% of the children of the poorer section opt for secondary or higher studies, are the reasons which make them vulnerable to such a dark society. Also, the government on its behalf has not been amended the laws favouring the victims and guaranteeing their protecting guarantee entry has many laws such as the protection of women from Domestic Violence Act, 2005 and Protection of Children against Sexual Offences Act, 2012, but despite such laws, the fruitful implement affected.

Most importantly, a woman must not be as despite such law shamed or petrified to come outstand the societal obligation, rather vent out to their closed ones about the harassment or domestic violence that they have been enduring to at least get some respite instantly from the horrors of the violence. It is imperative to put an end to any kind of harass domestic violence against them before it becomes a habit. It is like a staircase that they climb, wherein, if you let them climb that one, and where in are certainly going to climb the rest and make your life miserable and toxic. Therefore, the moment you realise that you are being harassed, recognise the rights that you have been empowered with and make a wise decision, “Remember you are the outcome of your choices.”

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³⁶ Child Welfare Gateway, How to Report Child Abuse and Neglect, (1 August 2020, 2:02 PM)
<https://www.childwelfare.gov/topics/responding/reporting/how/>

VIOLATION OF RIGHTS OF CHILDREN ALL OVER THE WORLD: WITH REFERENCE TO HOMELESS CHILDREN

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INTRODUCTION

The world is suffering from the pandemic COVID-19 as we are all aware. It has been months the world has slept peacefully, that is, in Harmon's particular have come to realize that a certain virus can put an end to all our joy and dig the earth's grave. One thing that must be noted is that, at least now we have come to know the rank of humans in nature's mark list. It really is desperate. We "humans". The Virus has started as the sole enemy of humans today. We cannot move away or rather die by surrendering and by just bowing to the Corona. The time has come to rise, we must try hard, to rise, and we will.

The major problem or hindrance while trying to survive is that not all the groups of people may be able to hold hands with others on their way to a healthy lifestyle. Those are the challenges that we face on our way forward. We already know the problems that not the children all over the world world wide, but now the problems have increased to another level which they faced problem at the arrival of the corona virus to our corona virus our country, to our earth, to our world. We all know that only human beings can find a solution to this problem. However, the actual question is that, are we really doing so? Are we trying hard to rid of this virus?

It will be disappointing to understand that still many people are not following COVID Protocols even though it is just a piece of cake for them. There is also another side to this issue. That is the people who cannot afford to live in healthy conditions. Children living in the streets can be mentioned as the first category in the earlier mentioned. The homeless children or the children living the streets are unable to carry on a health cannot if they want to or even if they desire to do so. The children are facing or undergoing tremendous as they get worried about their health and their ability to survive. It is sad when we understand that along with these hindrances in their lives, many other people are forcing preposterous issues into the lives of many of those young angels. It has been reported that the parents are

forcing children into marriages, mainly in the north eastern part of India. The family of those children in north eastern king the lockdown period as an advantage as it for the government to reach out significant he social evils while facing a great threat to the human race in the form of coronavirus.

As the economy is going down the homeless children are being forced by their priority or need or the only way to keep hunger way, to work hard forgetting the social distancing and the COVID Protocols. We are not to blame the children as they are helpless in their situation. Even they are forcing themselves to keep their body healthy even though it is an irony in unfortunate reaction.

IMPACT ON CHILDREN

It is really sad to come across the cases on sexual abuse even during the lockdown period. In Assam, over two hundred child rights violation cases can be counted, and it was reported that there has not been any fall in the child abuse cases in the lockdown period. Out of two hundred child rights violation cases, a Hundred and thirteen cases are noted to be child abuse cases. Thirteen to be on child labour, three on abduction and forty-seven cases on child marriage. It is shocking to understand how the adult citizens are paving the way for the development of the country. The social evils fought against in the British Period are strengthening its roots whenever a change occurs.

The Child labour increased due to the economic and social implications associated with the lockdown. The Child Protection Commissions have increased the radius of their duty by organizing webinars and other seminars online maintaining the "social distancing", as to iffy and to intervein the challenges faced by the children in the sea of high tides at this tip It has been reported that thousands have called the child helplines daily as they are worried about their health and their future on this planet. Many are going to sleep will stomach without even a roof over their cute innocent heads, without even understanding how to distance themselves from others. In India coronavirus has had a negative impact on around forty million children. These children include the ragpickers in streets and farms, the children working in the fields and rural areas, the children selling pens and balloons and other small items or gadgets at the traffic lights when the signal turns red.

Issues in India and Abroad

Where can these children go during the period of lockdown? All they have are the streets. Delhi has more than seventy thousand children living in the streets alone. The authorities are trying to share videos about the health of the chi children's health's methods to keep themselves safe. The pupils who

can afford phones or at least a group of children who can take care of the electronic gadgets were made aware of the health issues through videos via Tiktok before the impose that minds are worried about their parents losing their jobs and are clueless to find a way to pay their rents during this cursed period. Even Though many kind hearts have offered them food, that is simply not enough to satisfy the hunger of all those poor children. This situation has made it difficult for them to collect water and firewood from distant places. Delhi Commission has been trying hard to provide these children with food. It is a cheek wetting situation when we hear they call the Covid quarantine is just for rich people who can satisfy their needs by sitting at their homes. There is child Some children are each as they live far from the city, that is, in the outskirts. The hunger is not the only problem, the mental stress, the; theory is the Maj, and the problem. During the first seven days of the lockdown, the Childline India Foundation's number-1098, received about three lakh calls. Those calls called out the pain of hunger and expressed their fears and enquired the symptoms of the disease out of their genuine anxiety.

Studies showed that one hundred and fifty-two million children were engaged in child labor and seventy-two million children were engaged in hazardous works. Also, the families which earn who incomes have omitted or delayed the routine vaccinations for children as they are worried about the exposure to COVID-19 in the hospitals. As already mentioned, many children earned their living through rag picking. A boy named Nankesh carried on his livelihood in South Delhi's Nizamuddin area, where the people from the railway station fed his hunger with plastic bottles, food wrappers and other rags³⁷. However, now the real difficulty is that they do not have essential existence that entitles them to access basic services provided by the authorities. Some children were discriminated, during the food distribution too because of their appearance.³⁸ That is, many wore unwashed clothes and they never cleaned themselves. So, they were made to stand at the end of the queue.

The social distancing among the children in the streets is actual rule or criteria. It is difficult for the government too to spread its veins to the children living all over in Indian streets. The government may not be able to provide services beyond its scientific capacity. Then the only question is that, how can the street children and homeless youth be protected? Their living conditions are not hygienic. Many child hygienic having lung diseases such as asthma and pneumonia and due to this reason, the children who have asthma are hospitalized more compared to other than to their poverty, they are unable to get food items to feed themselves. Therefore, this has led to malnutrition among the children,

³⁷Dharvi Vaid, How Corona virus is affecting under privileged children in India, (10 July 2020 10:30 PM), <https://www.dw.com/en/how-coronavirus-is-affecting-underprivileged-children-in-india/a-54125032>

³⁸ Ibid

mainly living in the streets. The malnutrition results in a weak immune system making their body an easier target for the corona virus to enter.

Corona virus lockdown caused panic and they were mentally, disturbed as the children worked their live' work by moving about two hundred kilometers as kilometers home³⁹. In Karnataka, children are concerned about their uncertain future based on their security. The legal identity documents act as a barrier to the health services which they ask from the government. Also, other underprivileged children, whose parents cannot afford to buy mobile phones, television or the internet are worried about their future and how can they continue their studies? That is another category of children who are under structure their future even though they are having a roof have

WHAT HAS TO BE DONE?

We all know that each and every individual has a right to remain healthy. According to Article 12 of the International Covenant on the Economic, Social and Cultural Rights (ICESCR), everyone has got a right to go with and enjoy the health standard.⁴⁰ Also, Article 24 of the Convention on the Rights of the Child explains that every child has the right to enjoy the highest attainable health standard and also the children have the right to get proper treatment for their illness as to be healthy, as any other individual.⁴¹

That means, nobody has got a right to take away the right of a child or any other individual, in the matters concerned about the health of any individual. Whether the child any individual's health not is not even a matter and it never should be. The well-being does not only mean the absence of some kind of illness, but also projects the importance of being health both mentally and physically as the COVID-19 lockdown days can give those innocent minds much stress. Therefore, it is necessary to understand the importance of food habits and other hygiene measures especially during the period of lockdown as to protect and improve head these p, to one can attain the highest attainable health standard. Every street connected child or homeless child has the right to enjoy the street-connected to be healthy as any other child in the country or the world.

The government must make the health services possible to that extent during the period of the pandemic which is making all the children worldwide stuff pandemic, resafe drinking water as well as

³⁹ CSC Staff, COVID-19 and Street-connected children's rights: The right to highest attainable standard of health (30.04.2020), <https://www.streetchildren.org/news-and-updates/covid-19-and-streetconnected-childrens-rights-3/>

⁴⁰United Nations Human Rights Office of the High commissioner, International Covenant on Economic, Social and Cultural Rights, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁴¹United Nations Human Rights Office of the High commissioner, Convention on the Rights of the Child, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

food and a secure roof above their heads, which is situated in an environment in which harmony floats in the air. Therefore, concerning the health of the children, there are many factors that encourage the health the of children. Nutritious food and many factors encourage necessary medical children services though all the necessary health cares can be given in hospitals, the hospital might be far from the place in which the patient is living⁴². That is, talking about children, the children or child in need of health care might be living in a place distant from town or city. This acts as a hindrance in attaining health services even though the health services have been set up by the government. Also, education regarding health is also necessary as the both government has health vice health services Education children and this problem increases even more during the period of lockdown. Due to this families try not to spend the only pennies they have on doctors and sanitary products. There is also another matter that even if, the health services are provided, they might not be reached to the needy in a proper way. That is, hospital systems with unclean water. From this we can understand that health properly reached to the needy manner.

As they provide health care and services to the pandemic, affected patients, the government actually suspends other not-so-important health services as to concentrate on the pandemic COVID-19 even though that suspends the remain healthy of the other category, those services more significant limited for some time to take care of the greater trouble. Therefore, in order to take perfect decisions or better decisions, government must respect the views of children and must include them as specific to New Committee on Rights of Child, to involve children in the health policy through feedback mimes.⁴³

United Nations Committee on Rights of Child made sure that basic necessities are often available to all the children, especially, to the children belonging to underserved groups⁴⁴. They have focused on the hindrances which disable the children from getting the basic requirements in the form of identity proof, in case of children who are homeless and Street-connected that United Nations Office of High Commissioner for Human Rights⁴⁵ COVID-19 has made it clear to that no one the most significant children timely health care as if denied, it will be the greatest suffering that they would be

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⁴²CSC Staff, COVID-19 and Street-connected children's rights: The right to highest attainable standard of health (30 April 2020, 2:34 PM), <https://www.streetchildren.org/news-and-updates/covid-19-and-streetconnected-childrens-rights-3/>

⁴³United Nations Human Rights Office of the High commissioner, The Committee on the Rights of the Child, (30 April 2020, 12:00 PM), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

⁴⁴ id. At 42

⁴⁵United Nations Human Rights Office of the High commissioner, The Committee on the Rights of the Child, (29. April 2020, 7:00 PM), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

facing during the period of the pandemic. United Nations Committee on Rights of Child⁴⁶ has given information to safeguard the health of the children worldwide and also to provide them with education on the necessities during the period of lockdown due to the pandemic COVID-19. The children's health is given to con the basis of their age groups as to increase the awareness among children during this period and to make them understand the measures to protect themselves and others based on that we need to understand that the right to health has positive as well as negative efts of positive and negative duties for the government. According to the negative but we government cannot create a person's activities denying than a child and the positive duty that the government must fulfill is that the concept of right to health must be made a reality.

The government gives or must give special attention to marginalized group, to remove the hindrance in their physical as fulfil mental health and must encourage health care. The collaboration of the appropriate government and NGOs is required them to under group and fulfil the children's need sin generaandave come to an understanding that the only way to protect the future of the world and our country is by safeguarding the rights children's rights by their health and by not kenning their education. The government must take immediate action against all those who are making the children suffer thinking they have, won a war against the world's futured. Also, we must consider that it is important to safeguard their interests. Otherwise, our society will fall into a depth which that cause difficulty to rebuild all the values that t to us by great personalities. The idea of the rights and even the effort behind our own constitution will to drain. Dr. B.R. Ambedkar's Dr fee's message will get wasted if we do not pick ourselves to fight to protect the rights of the rights children during this period of the pandemic.

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⁴⁶United Nations Human Rights Office of the High commissioner, The Committee on the Rights of the Child, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

THE COVID-19 OUTBREAK: RESPONSIBILITY OF CHINA
UNDER INTERNATIONAL TREATIES

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ABSTRACT

Covid-19 has transformed the world into an event of global uncertainties', where people are even uncertain of what will happen with the world next week, let alone planning for future. Perhaps the biggest uncertainty in modern times concerns the role of the country where it all started i.e., Wuhan, China.

There are various questions regarding the role of China and whether the virus is state-sponsored in order to injure the economy of its rival countries? Whether China was wholly responsible for this cause? China is a party to the major international agreements regulating the biological weapons, having acceded to the Geneva Protocol in 1952 and the Biological and Toxin Weapons Convention (BTWC) in 1984.

This paper would focus on the International Human Rights violations and whether The Republic of China have violated the international Human Rights instructions such as UDHR, ICCPR along with IHR 2005? This paper will present the arguments for and against the state and find out whether the China is actually liable for the spread of Covid-19.

KEYWORDS: COVID-19, China, UDHR, BTWC, International Treaties & Agreements, ICCPR

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INTRODUCTION

The international outbreak of COVID-19 has brought the world and their governments from around the world to take serious steps of health measures in reaction to the public health demanding situations which have arisen, in addition to their corresponding social, financial and ramifications. The primary international organization known as the World Health Organization (WHO) is helping the world in coping up with this time of global health crisis and a pandemic. There have been various international treaties which were formed with the aim of collaboration and collective peace, especially after the World War II. The treaties like UDHR, ICCPR and IHR were formed as a result of various violations of basic human rights and their health issues and due to were aimed to provide benefits to the humans irrespective of their country. The signatories of these treaties have to follow them and any violation to their provisions can lead a country to a miserable position.

This paper is divided into several parts where, in the Part II, the importance of international treaties has been explained. The Part deals with the responsibility of China and its violation of these treaties. The Part IV deals with the argument in favor of China in respect to these favoring respecters. V provides a conclusion of the whole paper and answers the question the public of China of actually held liable for the of Covid-19.

IMPORTANCE OF INTERNATIONAL TREATIES

At the beginning of the twenty-first century, there are more than 50,000 international treaties which have been signed covering nearly every aspect and every facet of international relations and state authority respectively:

1. All the signatory of treaties have agreed to limit their powers to act in variety of ways – from limiting various political rights through ICCPR, to how they behave towards their own citizens under UDHR. During the period, most of the scholars have agreed to or to understand role of in open the understand the shaping state behavior.
2. The state behaviour commit to these treaties, once they analyze the anticipated positive and negative impacts of all the international laws that will be a them after toing a signatory to the treaty. Unless a state chooses to ratify a treaty, the effect of such treaty will not be applicable on their state i.e., non-binding. It becomes quite obvious that the state joins a treaty because they will derive some benefits

from it which will be, more than suffering harm. For example, if an agreement requires state to put a low tariff charges on imports, then it will the same treatment on the exports of state's exports as scholars have agreed to the notion that these treaties are usually bought so that it benefits the to benefit including China.

Therefore, it becomes important to understand that what importance and role these play when they are ratified by the powerful the powerful states ratify them **Rights (UDHR)**⁴⁷

The Universal Declaration of Human Right was formed post the World-War 2. The basic aim for forming this was to ensure people and of the world to respect and claim the worldwide humans. The UDHR provides a common standard of achievement for all peoples and all nations. The States commitment on human rights treaties have been very critical to understand because easy constitute a paradigmatic hard case. These treaties, like UDHR of do not don't really offer any reciprocal benefits to the state, as many other treaties However. But in reality, UDHR was a breakthrough especially because it came after the Second World War. This treaty was a revolution in international relations and has remained an inspiration till date. It is a part of UN Practice and also a part of into national customary law. The UN even have held many countries responsible under the UDHR, irrespective has of whether they are a part of treaty or not.

International Convention Civil and Political Right treaty⁴⁸

The International Covenant on Civil and political Rights (ICCPR) is committed to a broad Political of political and civil rights, including the equality of individuals before the tribunals and courts, the right to democratic speech, the security and liberty of individuals and the freedom to join associations. The State Parties, in accordance with the Connivance Other Barbaric, Abusive or Degrading Treatment (CAT), are expected to report on the steps they have the State Parties ken to give force to the rights inherent in the Treaty. An optional ICCPR protocol to be individually ratified by states that requires people to pretend to be require of breach of the rights set out in the covenant. They may file a lawsuit with the Council on Human Rights.

International Health Regulations (IHR)⁴⁹

⁴⁷ Juan E. Mendez, The 60th Anniversary of the UDHR, 30 U. PA. J. INT'L L. 1157 (2009)

⁴⁸ Shiyun Sun, Understanding and Interpretation of the ICCPR in the Context of China's Possible Ratification, 6 Chinese J. INT'L L. 17 (2007)

⁴⁹ Ching-Fu Lin, COVID-19 and the Institutional Resilience of the IHR (2005): Time for a Dispute Settlement Redesign? 13 CONTEMP. ASIA ARB. J. 269 (2020).

The International Health Regulation was formed in response to reemergence of international disease threats along with a lot of international travel. The purpose and scope of IHR was "to prevent, protect against, can were and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade. Instead, regulation was made not only to deal with, rather it applies to the, and rather the risk initially and other important issues. This regulation was originally adopted at the World Health Assembly in 1969 and was revised last in 2005. The World Health Organization (WHO) is empowered by this law to act as a global mechanism of supervision mechanism **INA**

There are more than 26 million confirmed cases and around 8,50,000 deaths in the world due to the globally covid-19. The question among is that was it possible to prevent this huge loss of life? Could China have done something in order to prevent the disease from spreading to the whole world?

QUESTION THAT WHETHER CHINA QUESTION THE PROVISION OF UDHR

China has been a signatory to both the UN Charter and the UN Universal Declaration of Human Rights under the flag of the Republic of the banner China's flag Republic of was the first China's ban rights declaration in the western world that guaranteed equal rights as well as other political rights. Nonetheless, the United Nations did not represent mainland China and thus did not adhere to any. They thus did rights systems of the United Nations with the Civil War, the Communist victory over the homeland and the nationalist flight to Taiwan (from where China was represented by the United Nations until it was disbanded by the People the People's Republic of China disbanded the UN, the representatives of the People's Republic of China reaffirmed their recognition of the United Nations Charter and the General Declaration of Human Rights. But because China was in the middle of the midst of the Cultural Revolution), until the late 1970s, it did not participate strongly in the UN. China has since been a signatory of the ICCPR, but the new amendments are yet to be ratified.

According to a study⁵⁰, it was found out that creating awareness can not only lower the infection rate of the disease but can even stop it from becoming epidemic, but Chinese authorities stopped the doctors to disclose Chinese information about this new disease to the public which made awareness

⁵⁰Sebastian Funk, Erez Gilad, Chris Watkins and Vincent A.A. Jansen, "The Spread of awareness and its impact on epidemic outbreaks" *Proceedings of the National Academy of Sciences of the United States of America* 2009

next to impossible and the disease which could have been stopped be. Theming epidemic, became pandemic.

“The Article 19 of the UDHR states that, everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”⁵¹ Therefore, it provides for right of every person to have freedom of opinion and the expression as well as to hold opinions and share them through media or anywhere as they deem fit, but the approach of Chinese government not to. However, the any information⁵² about the contagious disease was violative of this provision of Article 19 of UDHR.

QUESTION THAT WHETHER CHINA VIOLATED THE ICCPR

The China was also signatory to ICCPR, Article 19 that, “*Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through other media of his choice.*” The World Health Organization in a press July, admitted that the World Health Organization the China kept everyone in dark about the kept everyone in the dark, this Article was also violated by Chinese government when they tried to cover the up the pandemic and did not disclose any information to public.⁵³

QUESTION THAT WHETHER CHINA VIOLATE THE ABOUTTION PROVISION OF INTERNATIONAL HEALTH REGULATIONS 2005

The Republic of China has also violated the provision provided under Article 7 of International Health Regulations 2005 stating, “If a State Party has evidence of an unexpected or unusual public health event within its territory, irrespective of origin or source, which may constitute a public health emergency of international concern, it shall provide to WHO all relevant public health information.”⁵⁴ This provides that the state party has to provide the information to World Health Organization the on

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⁵¹Universal Declaration of Human Rights 1948, Article 19.

⁵²“China was slammed for initial COVID-19 secrecy, but its scientists led the way in tackling the virus, Science Business” (Aug 16, 2020, 1:19 PM), <https://sciencebusiness.net/covid-19/international-news/china-was-slammed-initial-covid-19-secrecy-its-scientists-led-way>

⁵³China hid truth about Covid-19 pandemic from its people for almost a week, Hindustan Times (Aug 18, 2020, 2:40 PM), <https://www.hindustantimes.com/world-news/china-hid-truth-about-covid-19-pandemic-from-its-people-for-almost-a-week/story-8CiFkBxJh37CEl67eK5paN.html>

⁵⁴International Health Regulations 2005, Article 7.

if it finds any unexpected or unusual public health events in its territory. China faced such a situation when Covid-19 began to spread to its territory and China abstained from sharing information with the WHO except for the virus genome⁵⁵ and deliberately misled the WHO so that whole world cannot be ready to sustain their economy and such actions led the local outbreak to become pandemic.

REASONS IN FAVOR OF CHINA

The United Nations Human Rights Committee has described freedom of expression as of paramount importance for any democratic society⁵⁶, but Republic of China. However, the, Republicated democracy, but a communist state who believes in controlling the media and have control over the society and that is the way they have been flourishing and rising as next superpower. It is a matter of sovereignty for China.

The question that China violated the provisions of International Human Rights instruments are far-fetched from the truth as along with all the world, Republic of China has also suffered at the hands of this virus, but as Chin. However, as control and strictness over its society, it could prevent the virus from spreading in the country but whereas the democratic countries of the west were not able to control their could more prominent and couldn't take drastic measures and hence they became the bigger victim to the virus.

QUESTION THE QUESTION THE PUBLIC OF CHINA VIOLATED THE PROVISIONS OF UDHR

China is a signatory to both the UN Charter and the UN Universal Declaration of Human Rights and had ratified the same and China is obliging with the provisions ever since China's The action to not to disclose any information about the new outbreak, comes under the ambit of Article 29(2) and Article 30.

Article 29(2) provides for the reasonable restrictions on the rights provided under the declaration. This provision states that a state can put restrictions upon these rights “*to such limitations as are determined by law*”. Further this restriction can only be put up when there is a question of;

- i. Securing Due Recognition

⁵⁵World Health Organization: “*China not sharing data on coronavirus infections among health-care workers*, *The Washington Post*” (Sep 6, 2020, 8:00 PM), https://www.washingtonpost.com/world/asia_pacific/world-health-organization-china-not-sharing-data-on-health-care-worker-coronavirus-infections/2020/02/26/28064fda-54e4-11ea-80ce-37a8d4266c09_story.html(last visited).

⁵⁶Tae Hoon Park v Republic of Korea (628/1995), CCPR/C/64/D/628/1995 (1998), 20 October 1998; 6 IHRR 623 (1999) at para 10.3.

- ii. Respect of the Citizen and freedom of others
- iii. Morality
- iv. Public order
- v. General welfare

The Republic of China took the necessary actions in order to public order and not to creations amid its citizen which could have incited fear and might have led to panic buying, riots, depletion of stocks etc. such as what happened in other western countries⁵⁷. Whereas, the Article 30 of the provides that nothing in this declaration can bind the state and that its provisions does not have any over the Republic of China.

QUESTION THAT CHINA THE QUESTION THE PROVISIONS OF ICCPR

The Republic of China is a signatory to International Covenant on Civil and Political Rights but have not satisfied it and hence the treaty has no binding authority it. this, the state has yet not violated its provisions.

Almost all the jurisdictions, states, declarations, conventions etc., provide some type of restrictions along with rights. And CCPR, it provides certain limitations⁵⁸ in case of;

- i. When such restrictions are imposed by law
- ii. Such restrictions are for rights and reputation of the others
- iii. For protection of;
 - a. Public the Order
 - b. Public Health
 - c. Morals.

Thus, China respected the provisions ICCPR and then appropriate to the restrictions as disclosing such information at an early stage might cause the fear and the same reaction as in western countries.

QUESTION THAT CHINA VIOLATE THE PROVISIONS OF INTERNATIONAL HEALTH REGULATIONS, 2005

⁵⁷Paulina Cachero, Photos of ravaged grocery stores show how people are panic-buying across the US in the wake of the coronavirus pandemic, INSIDER, (13 March 2020, 2:00 PM), <https://www.insider.com/americans-panic-buying-grocery-stores-food-toilet-paper-coronavirus-pandemic-2020-3>

⁵⁸International Covenant on Civil and Political Rights 1966, see art 19(3).

The article 7 of International Health Regulations 2005 provides the state to provide the information to WHO if it finds any evidence of an unexpected or unusual public health event within its territory. The Republic of China did not have any reasonable apprehension or any evidence that the virus could be this much contagious was evidently as it was considered as “pneumonia-like”. China did not impose strict regulation pose or lockdowns in cases of pneumonia. When the outbreak got out of hands of Khynese Chinese ties and the Republic of China got sufficient evidence and information of this unexpected and unusual public health, then China share the genome virus's sequence of the virus and did its part.

CONCLUSION

The Covid-19 was declared a pandemic disease by WHO after its outbreak round the globe, war coinitial was in China. There have been various organisations, scholars, and journalists that are talking about the liability of China unfamous international provisions and the popular on-going popular China responsible for the spread of disease. The WHO's funding was The US Government also stopped the WHO's funding while favoring a hurdles for WHO in this pandemic. As the paper above highlights as importance of international treaties, the violation of China of the treaties and the reason which not to be China to not be held liable for the spread of However, disease. But it still is very evident that even though there are claims which might support China but that China could easily be, China for illustration of human rights for the death of about a million people in the world. There are various international treaties and conventions like the Biological and Toxin Weapons Convention (BTWC), the responsibility of States for International various Public Law which have been violated by the China making violation said of the Covid-19.

**INDIAN LEGAL SYSTEM AND ACCESS TO JUSTICE DURING
CORONA VIRUS**

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ABSTRACT

Situations may arise which may be tremendously critical on their own facts, and an opportunity is needed to be provided in order to show before a court of law, such an urgency. Urgency cannot be prejudiced on of subjective understanding of the same, because the test of urgency may be different for each person give their situation.

Due to current crisis of COVID-19, the rights offer who are dependent on legal professionals and lawyers them to present their cases in the courts, are being set aside in whole. There cannot be an unending shut down of courts, keeping in view the on-going downfall in every profession, particularly the legal profession during COVID -19 pandemic. Despite the present unfavorable situation, the society cannot do away with a justice delivery mechanism. The present crisis needs to be molded way to our benefit to offer a justice delivery mechanism which may work effectively and efficiently lying times.

KEYWORDS: Coronavirus, Video Conference, Justice, e-Courts, legal

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INTRODUCTION

The operations of justice systems across the globe are facing unprecedented consequences in response to the COVID -19 pandemic. Courts are shutting, or altering the worldwide an contrarily affect the arrangement of convenient and fair hearings, add to expanded case build-ups, and lead to the expanded length of legal and administrative procedures. Particular clusters of society such as women, juveniles, undocumented transients, outcasts, and refuge searchers are at risk and intensely society clusters changes. Pre-trial felons or convicts entitled to early release are also suffering sustained confinement due to relegated operations of the courts of law. In the absence of an operative judicial supervision, people neither apprehended, whilst emergency measures are enacted to take control over the virus, may nor produced before a judge timely.

Precisely asserted by United Nations Development Program, “as states enact emergency regulations to counter the spread of COVID-19, judicial oversight of the implementation of emergency measures is critical to avoid the excessive use of emergency powers. The socio-economic impact of the crisis will also have significant justice-related implications as inequalities are exacerbated. Specific efforts will be required to improve access to legal services and legal information to empower people and communities to resolve their disputes, seek redress for rights violations, or counter discrimination on a range of issues including housing, employment, legal/residency status, access to health benefits or other social protection mechanisms.”⁵⁹

METHODOLOGY

STATEMENT OF PROBLEM

The problem profile of this paper relates to the effect of COVID -19 on the current situation of the Indian judicial system, highlight This paper's its lapses and involved.

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⁵⁹ Ensuring Access to Justice in the context of COVID-19, United Nations Development Programme (July 2nd, 2020, 6:10PM) https://www.undp.org/content/undp/home/librarypage/democraticgovernance/access_to_justiceandruleoflaw/Ensuring-access-to-justice-in-the-context-of-covid19-.

AIMS AND OBJECTIVES

This paper aims to put forth the problems faced by the Indian Justice Delivery Mechanism in wake of the harsh conditions faced by the nation due to COVID-19. The government of India had put into action a significant lockdown in the wake of nation's rich, which took a courts all over the nation. This paper discusses what kinds of problems were faced by the courts in India and related guidelines by the Supreme Court in various cases. This also deals with the Video Conferencing will become the new face of justice delivery mechanism and how the COVID-19 pandemic brought upon an unfortunate opportunity Moreover, Indian courts. And in the conclusion, it gives a few suggestions as to how the new era of courts can come into effect efficiently.

RESEARCH QUESTIONS

1. What is the conclusion in the justice delivery mechanism?
2. How can it help the stakeholders in the said mechanism?
3. What caused the under-achieving situation of the Indian Judicial System?
4. How has the COVID-19 Pandemic led to an unfortunate opportunity for the Indian Legal System to undergo a much-needed overhaul?

METHODOLOGY USED

The project involves secondary research. The use of electronic research has been made to marshal material and data about this topic. Texts, case laws, and other references, have assisted in framing the project. Websites, dictionaries, and articles have also been looked into.

BACKGROUND

“While technology has enabled us to go paper less in many courts and go digital, if not all the way then substantially, in many courts, we now have the benefit of modern artificial intelligence tools that will assist in improving the efficiency of our justice system through sophisticated and contextual automation of existing repetitive non-judicial tasks and functions to reduce pendency, expedite judicial adjudication and create more time for judges to resolve complex cases.”

-Justice Sharad Bobde (CJI), 2019⁶⁰

Justice Sharad Bobde, Hon'ble Chief Justice of India made the aforesaid excerpt on National Constitution Day while introducing the 'first-generation neural machine translation tool', SUVAS. Talking about transforming Indian excerpted mentioned above expressed his enthusiasm on evolving technological advancements like Artificial Intelligence and increasing intercessions over conventional mechanisms. *"force necessity for this transformation has become even more prominent under the current scenario where due daily outbreak of the COVID-19 pandemic, courts' diurnal functioning has practically come to a halt. Courts more than ever before, need to invest heavily in the development of technological facilities and infrastructure. Access to justice needs to be reimaged. It is in this background, the discourse on technology integration in the judiciary must be evaluated with urgency and pragmatism"*, said Justice Bobde.⁶¹

The Indian Judiciary has, fortuitously, began on an overhaul in technical progression, principally through assimilation of "Information and Communication Technology" in Indian courts. While laying down the infrastructural foundation, under the E-courts mission, for the integration of technology in court processes a disciplined and systematic approach was adopted, a disciplined and systematic approach was adopted. Opportune moment to build upon its edifice, a more advanced and sophisticated technological framework for the Indian justice alleviate access to justice issues across the current issues across the country."⁶²

This existing pandemic much ambitious as it is, has provided for the greatly desired momentum for the vision charted by Justice Bobde, to integrate "Information and Communication Technology" in Judiciary. In order to improve the access to the justice deliver to improve to a mental advancements can be made. Meanwhile, the pandemic brought about recourse until individual logical elucidations has led to certain ad-hoc untenable choices that may shake the very structure on which the judicial system stands i.e. the Principle of Natural Justice.

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⁶⁰ The Print Team, AI can improve judiciary system's efficiency, The Print, 27 November 2019, (July 2nd, 2020, 8:28 PM), <https://theprint.in/judiciary/ai-can-improve-judicial-system-efficiency-full-text-of-cji-bobdes-constitution-day-speech/326893/>.

⁶¹ Id.

⁶² Deepika Kinhal, Ameen Jauhar, Tarika Jain, Vaidehi Misra, Aditya Ranjan and Chitrakshi Jain, Virtual Courts in India: A Strategy Paper, (July 2 2020, 5:00 PM), <https://vidhilegalpolicy.in/research/virtual-courts-in-india-a-strategy-paper/>

TECHNOLOGY IN INDIAN JUDICIARY

Since 1990, the Indian Judicial system has been progressing with efforts at computerization being initiated by the “National Informatics computerization efforts were constrained to the higher judiciary, the “e-Courts mission mode project”, a nascent advance within the juncture of technology and the Indian judicial system, aspiringly targeted this concoction across all district courts in India. The source of the e-Courts project can be taken back to 2005 when the Hon’ble named an “project's source for Monitoring the Use of Technology and Administrative Reforms in the Indian Judiciary”.⁶³ The “E-Committee” framed the “National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary” which sketched the structure for assimilating ICT in District Courts in India.

This idea became the foundation for the “e-Courts project”, which postulated the adoption of technology in various stages. At its core, the project aimed technology's imparting and time bound delivery of justice.⁶⁴ The main contributions of the “e-Courts project” time-bound for “provisioning of technological infrastructure for ICT enablement of District Courts”, including the following:

- “hardware,
- Local Area Network (LAN),
- internet connectivity and
- Standardization of software to be used across these courts.”

The project has progressed over the years in its parameters, aims, and monetary aspect. It has unquestionably permitted the Indian Judiciary to make substantial profits in supervising of:

- “court-wise case pendency,
- simplifying routine operational activities and
- providing a digital infrastructure for online service delivery.”

The “e-Courts” project gave birth to the establishment of technological infrastructure for the “District and Taluka Courts of India” and has brought about a transition in the pattern of litigation in India in

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⁶³ “Office Order (No. L-I 10151212004-Jus, 2004), Ministry of Law and Justice, Govt. of India” (July 2nd, 11:05 PM), https://main.sci.gov.in/pdf/e-committee/ecommittee_officeorder.pdf.

⁶⁴ “National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary (2005)”, E-Committee, Supreme Court of India (July 2nd, 2020, 11:20 PM), <https://main.sci.gov.in/pdf/ecommittee/action-plan-e-court.pdf>.

many ways. Principal amongst them India's the "e-courts website" tures numerous litigant-centric services like:

- "finding out the case status,
- electronic cause lists,
- and easy access to daily orders in PDF formats."

From a data-gathering person most significant arguably the "e-Courts project's" greatest accomplishment has been the creation of the "National Judicial Data Grid".⁶⁵

I. GUIDELINES FOR FUNCTION IN CREATING USED BY SUPREME COURT OF INDIA

The COVID-19 outbreak in India has compelled the instant adoption of measures to ensure "social distancing" in order to avert the diffusion of the virus. The Hon'ble Supreme Court of In the Courts have implemented measures to reduce the physical presence of:

- "lawyers,
- litigants,
- court staff,
- para legal personnel and
- representatives of the electronic and print media"

In courts across the nation and to safeguard the constant dispensation of justice. To preserve the "Rule of Law" in the democracy envisioned by the Constitution of India, access to justice is fundamental. The challenges induced India's COVID-19 need while conserving the constitutional obligation to warranting the delivery of and access to justice to those who seek the same. "Faced with warranty and extraordinary break of a pandemic seeking's necessary that Courts at all levels respond to the call of social distancing and ensure that court premises do not contribute to the spread of the virus. This is not a matter of discretion but of duty."⁶⁶

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⁶⁵ "The NJDG is a data gathering portal which tracks pending and disposed cases across all the High Courts, District and Taluka Courts in India, in real time, and has emerged as a significant tool for empirical data collection on court performance", (July 3, 2020, 11:20 PM), https://njdg.ecourts.gov.in/hcnjdg_public/index.php.

⁶⁶. *In Re: Guidelines for Court Functioning through Video Conferencing during COVID-19 Pandemic* (Suo Moto Writ (C) no.5/2020)", https://main.sci.gov.in/supremecourt/2020/10853/1085_2020_0_1_21588_Judgement_06-Apr-2020.pdf.

Thus, in the exercise of the powers conferred upon the Hon'ble Supreme Court of India vide Article 142 of the Constitution of India to "make such orders as are necessary for doing complete justice", the SC directed that⁶⁷:

- i. *"All measures that have been and shall be taken by this Court and by the High Courts, to reduce the need for the physical presence of all stakeholders within court premises and to secure the functioning of courts in consonance with social distancing guidelines and best public health practices shall be deemed to be lawful;*
- ii. *The Supreme Court of India and all High Courts are authorized to adopt measures required to ensure the robust functioning of the judicial system through the use of video conferencing technologies; and*
- iii. *Consistent with the peculiarities of the judicial system in every state and the dynamically developing public health situation, every High Court is authorized to determine the modalities which are suitable to the temporary transition to the use of video conferencing technologies;"*
- iv. *"The concerned courts shall maintain a helpline to ensure that any complaint in regard to the quality or audibility of feed shall be communicated during the proceeding regarding after its conclusion failing which no grievance in regard to it shall be entertained thereafter.*
- v. *The District Courts in each State shall adhere regarding of Video Conferencing presence criteria that concerned High Court.*
- vi. *The Court shall duly notify Video Conferencing mode cities for video conferencing for such litigants who do not have the means or access to video conferencing facilities, inappropriate cases courts may appoint an amicus-curiae and make video conferencing facilities available to such an advocate.*
- vii. *Until appropriate rules are framed by the High Courts, video conferencing shall be mainly employed for the High Courts frame appropriate rules at the appellate stage. In no case shall evidence be recorded without the mutual consent of both the "parties video conferencing. If it is necessary to record evidence in a Courtroom the presiding officer shall ensure that appropriate distance is maintained between any two individuals in the Court.*
- viii. *The presiding officer shall have the power to restrict the entry of persons into the courtroom or the points from which the arguments are persons address advocates. No presiding officer shall prevent the advocates address the arguments is suffering from any infectious illness.*

⁶⁷ "In Re: Guidelines for Court Functioning Through Video Conferencing During COVID-19 Pandemic (Suo Moto Writ (C) no.5/2020)", https://main.sci.gov.in/supremecourt/2020/10853/1085_2020_0_1_21588_Judgement_06-Apr-2020.pdf

How a party's entry of litigants are many the presiding officer shall have the power to restrict the numbers. The presiding officer in his discretion adjourn the proceedings where it is not possible to restrict the number.”⁶⁸

IMPACT, OF COVID-19 ON THE JUSTICE DELIVERY MECHANISM

The slenderest notion of “access to justice” refers to “an individual’s formal right to litigate or defend”. The Preamble of the Constitution of India begins with “the solemn resolve to secure to all its citizens Justice, social economic and political”. “Article 39A depicts this by imposing a duty on the State to ensure that the operation of the legal system endorses justice on the basis of equal opportunity. It is clear enough that access to justice can neither be shut down nor based on the pandemic is over. This access is a necessity for everyone in order to proclaim and protect their fundamental rights and freedoms.”⁶⁹

Congestion within Court campuses is a generic feature. Other than Judges and their court staff, lawyers, associates, clerks, and litigants too swarm courtrooms. In this environment, the idea of social distancing is unfeasible.

Several questions come up and as of now remain unanswered:

- “How will a litigant in jail, access lawyers when jail visits are stopped and when remand appearances are through video conferencing?
- How will he/she instruct lawyers on strategy or on facts?
- Will video conferencing in Courts maintain confidentiality to enable client and lawyers to confer in pate?
- Similarly, how does one secure the sanctity of a witness’s testimony during VC evidence?
- By not having the accused present personally, will not his/her right to participate in the conduct of proceedings be breached?
- Doesn’t this defeat the principle of open court?”⁷⁰

COVID-19 has challenged the emergency of interim relief from the Hon’ble High Courts and the Apex Court. “With the virtual courts only functioning, around 80% of the daily judicial workload has

⁶⁸ Id.

⁶⁹ Sidharth Luthra, “COVID-19: Has Access to Justice been Lost?”, Latest Laws (July 3rd, 2020, 1:10 AM), <https://www.latestlaws.com/articles/covid-19-has-access-to-justice-lost-by-sidharth-luthra-senior-advocate-and-advocate-ketaki-goswami/>.

⁷⁰ Id.

disappeared. The Supreme Court is functioning at 15–20% of its strength on the judicial side with 4 to 10 judges presiding out of present strength of 32 judges and the litigation load is around 10% to 15% of the usual list of business on a daily basis.”⁷¹

In times to come, the judicial forums will have to come up with and put in practice anew work matter daily would be reduce the entry in these forums, along with hygiene and sanitation of the premises Human Resource in times to compressing a priority. Manpower would be replaced by technology and court and chronic disputants would also have to be brought under control. “In a nation of 137 crore, the lower courts have very poor infrastructure and the states need to address this issue.”⁷²

*Justice Bobde again said “the apex court was one of the first institutions to respond to the crisis by restricting the normal functioning and it was determined to ensure that the court does not become the Centre for propagation of the corona virus. We found that it was not possible to maintain the safety and protect the lives of advocates and members of Registry because every space be it filing counters, bar rooms, copy rooms or canteens were congregated by people. It was found absolutely necessary to work jointly to reduce footfalls in the apex court premises”. Justice Bobde further said “technology should be simple to use and not exclude citizens anywhere and this system of e-filing will make access to justice simple and inclusive through inexpensive system”.*⁷³

Justice Bobde again said “the apex court was one of the first institutions to respond to the crisis by restricting the normal functioning and it was determined to ensure that the court does not become the Centre for the propagation of the coronavirus. We found that it was not possible to maintain the safety and protect the lives of advocates impossible of the Registry because every space be it filing counters, bar rooms, copy rooms or canteens were congested by people. It was surely necessary to work jointly to reduce footfalls in the apex court”. Justice Bobde further said, “Technology should be simple to use and not exclude citizens anywhere and this system of e-filing will make access to justice simple and inclusive through in expensive the system.”⁷⁴

Speaking on the occasion. Y.Chandrachud said that Covid-19 has distressed had daily people's of people and vigorous and regulated institutional responses. “In using technology our mother to, in the e-committee is simple: efficiency, transparency, and access to every user of justice services. We are also conscious of the fact that not every lawyer has access to technology. Hence our solution must

⁷¹ Merusagar Samantaray, *COVID Impact on the Legal System: What Should be the Way Forward?* Odisha Bytes (July 3rd, 2020, 2:30 AM), <https://odishabytes.com/covid19-impact-on-legal-system-what-should-be-the-way-forward/>.

⁷² Id.

⁷³ PTI, *Coronavirus has Forced Courts to Rethink on How to Function: CJI*, Financial Express (July 3rd, 2020, 3:20 AM), <https://www.financialexpress.com/india-news/coronavirus-supreme-court-functioning-cji-sa-bobde-covid19-justice-chandrachud/1960592/>.

⁷⁴ Id.

*factor this to ensure that we continue to be an inclusive institution and reach out to those who do not have the a have access toy, in particular, members of the bar”.*⁷⁵

As laid down by Santosh Paul, a Senior Advocate in the Hon’ble Apex Court. There are several aspects to the problem in these trying times⁷⁶:

1. **“Annihilation of Rule of Law:** Access to justice is a very important and determinative factor before any of the options are considered. People may wrongfully be under incarceration deserving bail, some will need protection from eviction/dispossession of their properties, aggravated actions of the executive and the wings of government will have to be restrained which effects their rights of life and also their right to property and other fundamental rights, protection from arbitrary actions of the instrumentality is of the state, people seeking protection from land mafia and other antisocial elements, children seeking maintenance in matrimonial courts, women and children of foreign nationalities to travel to their home in this hour of crisis.”
2. **“Intensifying Backlog:** Closing down courts will magnify the problem by many folds the backlog of cases. It would also be a serious infringement of the right of the parties to a constitutional guaranteed fair and speedy trial.”
3. **“Shutdown will be Self Serving:** It is important that social distancing demanded by the scientists and doctors However, formalities to be followed. But the fear of the pandemic to completely shut down the courts and thereby deprive access to justice is a move which can only be perceived as the right exercised by an entitled group. People are manning the health care center, hospitals, essential services like electricity, water, sanitation, transportation of food and materials inhuman habitation areas in across the counter policing not to” “mention the Armed Forces. To claim complete protection for ourselves at the cost of millions of litigants would be viewed and perceived as self-serving.”⁷⁷

II. WHAT CAN BE DONE?

- **Filing with Written Submissions”:** Often an exchange of oral arguments is necessary is for admission purposes. In the experience of lawyers on record and filing advocates, there cannot be a worse nightmare in the current system than that of E-This process often eats up hours of labor. This makes labour entire arrangement disadvantageous and the required social distancing

⁷⁵ Id.

⁷⁶ Santosh Paul, Courts in the age of the coronavirus: Why courts can’t shut down , The Economic Times (July 3rd, 2020, 10:50 AM), <https://economictimes.indiatimes.com/blogs/courts-commerce-and-the-constitution/courts-in-the-age-of-the-coronavirus-why-courts-cant-shut-down/>.

⁷⁷ Id.

becomes futile. Hence, the system of paper filing needs to carry on until a user-friendly e-filings procedure is introduced.

- **“Email Queries and Responses from Bench”**: Situations might arise when the courts require a reply on specific definite issues. In such instances, restrained oral hearings and emailed to the Moreover and/or clients. And the same can be responded to via email.
- **“Video Conferences Replacing Arguments in Courts”**: Significance of oral arguments cannot be repudiated. As most aptly put by Justice William Rehnquist, “an Oral argument offers a direct interchange between court and Counsel... Probably the most important catalyst for generating further thought... Justices of the United States Supreme Court have almost unanimously agreed that effective oral advocacy is one of the most powerful tools of the professions”. Undoubtedly, the same will be restricted to the urban areas where there is infrastructure for this methodology.
- **“Written Arguments where Technological Innovations are Impossible to Operate”**: there are numerous courts in different parts of the nation which are not expedited with sufficient internet connectivity or the necessary communications facilities. There exist challenges for the legal fraternity, many of which may not be pally with the current-day technological advancements. The transition may be gradual in some parts of the nation than others.⁷⁸

III. THE REFORMATION OF LEGAL CULTURE

Law has countered the past catastrophes with distinctive caution, endurance to material change, and anticipation of the return to state returning goes the economic depressions produced short-term industry belt-synching and superficial change. They did not uncover the industry’s systemic Achilles’ heel or trigger swift implementation of new operating models. COVID-19 is different. It has casted an unforgiving cast on the obsolete justice dispensation mechanism. In hardly any time, law schools have turned to online learning, minor flaws in the partnership model law firms have converted to discrepancies. Covid-19 has mobilized the potential of unactualized tools and alternate work patterns long forborne by the legal institution.⁷⁹

“Is law’s present its future?”

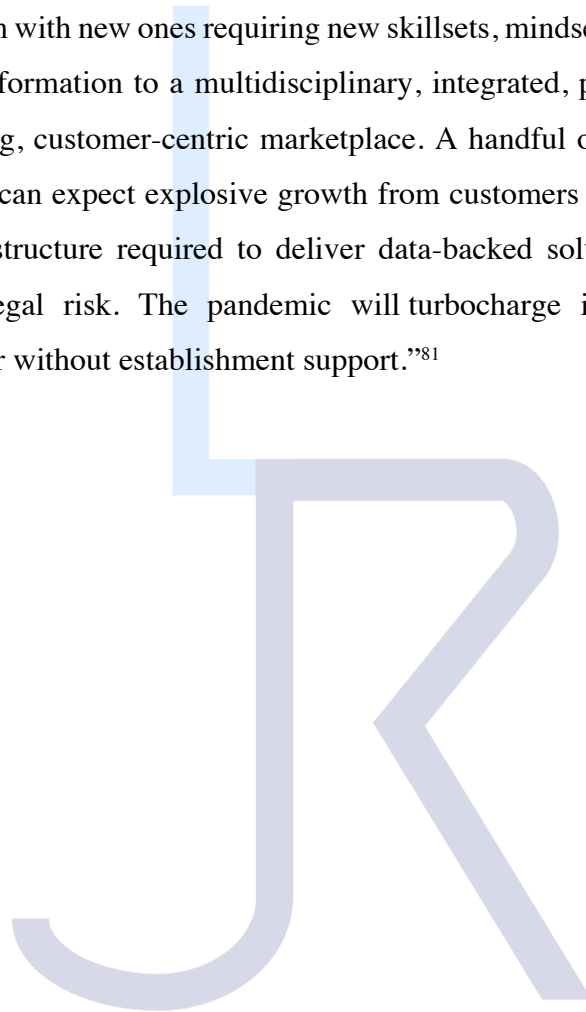
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⁷⁸ Santosh Paul, Courts in the age of the coronavirus: Why courts can’t shut down, The Economic Times (July 3rd, 2020, 10:50 AM), <https://economictimes.indiatimes.com/blogs/courts-commerce-and-the-constitution/courts-in-the-age-of-the-coronavirus-why-courts-cant-shut-down/>.

⁷⁹ Mark A. Cohen, COVID-19 and The Reformation of Legal Culture, Forbes (July 3rd, 2020, 4:10 PM), <https://www.forbes.com/sites/markcohen1/2020/04/14/covid-19-and-the-reformation-of-legalculture/#21cca59c171d>.

The delineations of the post-Covid industry are yet to be molded, but a dilemma arises that Covid-19's legacy will survive its cure. To scrounge from "T.S. Eliot's *The Journey of the Magi*", the legal institution is "*no longer at ease here, in the old dispensation –it has witnessed the birth of new ways of doing things and the death of the old order. The iron grip law's entrenched stakeholders have long held on the industry has been released.*" The question arises that which rudiments of "old law" and legal ethos are here to stay, not whether things will get back to the pre-Covid order.⁸⁰

In Mark A. Cohen's view, published in *Forbes*- "Automation will eliminate many jobs once performed by attorneys, replacing them with new ones requiring new skillsets, mindsets, agility. The industry will accelerate its gradual transformation to a multidisciplinary, integrated, platform-driven, capitalized, data-based, problem-solving, customer-centric marketplace. A handful of elite providers have made that transition at scale and can expect explosive growth from customers in need of safe hands, track records, capital, and infrastructure required to deliver data-backed solutions to complex business challenges that include legal risk. The pandemic will turbocharge industry transformation and change legal culture with or without establishment support."⁸¹



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⁸⁰ Id.

⁸¹ Id.

CONCLUSION AND SUGGESTIONS

“How can we do better?”

The procedure commences with the consumer outlook. The industry will be less self-absorbed and much more consumer-centric. Schools of Law will not be the sole authorities of good students, the marketplace shall, and the legal consumers, not law firms, will regulate the division of labor. Platforms labour offer buyers and sellers with immediate, data-led, safe access to resources across various spheres. The discrepancies between different categories of legal professionals will become increasingly distorted, if not meaningless. The Law Schools must upgrade themselves to prepare law graduates for the altogether changing legal profession.⁸²

Once we return to the “new normal”, it is evident that the existing courses will not apply. A public function as crucial as adjudication cannot be dependent on third-party software. The “National Informatics Centre” will have to produce a platform that comprises of features such as video-conferencing and e-filing. To be definite, forming a next-generation justice dispensation mechanism will not be without its obstacles. Although “information and communications technology” is becoming predominant, many people may still comfortable feel with the new technology. During the conversion, it will be imperative to inspect the current procedures to eradicate severances, so that the paper's processes on paper are duced in digital form. Equally importantly, for the radical transformation to be a success, we will need these three things⁸³:

1. “A clear articulation of the guiding principles and vision of the platform to better achieve a quality justice system that can be future-proof against new technologies.
2. A cogent strategy regarding the implementation of the platform’s details.
3. A clear legal framework that will give sanction to the implementing agency to lead the co-ordination of reforms but also protect the interests of litigants.”

The way forward would also command application of the following⁸⁴:

1. “Overhaul of the entire legal ecosystem to equip the judiciary and legal fraternity, particularly at the district courts with the knowledge of handling technology and use of visual platforms for

⁸² Mark A. Cohen, COVID-19 and The Reformation of Legal Culture, Forbes (July 3rd, 2020, 4:10 PM), <https://www.forbes.com/sites/markcohen1/2020/04/14/covid-19-and-the-reformation-of-legalculture/#21cca59c171d>.

⁸³ Madhav Chandavarkar, The Coronavirus Pandemic is an Unfortunate Opportunity for India’s Judicial System to Modernize, Scroll (July 3rd, 2020, 6:10 PM), <https://scroll.in/article/958271/the-coronavirus-pandemic-is-an-unfortunate-opportunity-for-indias-judicial-system-to-modernise>.

⁸⁴ CD Staff, Judiciary in Times of COVID-19 Outbreak, Civils Daily (July 3rd, 2020, 6:40 PM), <https://www.civildaily.com/burning-issue-judiciary-in-times-of-covid-19-outbreak/>.

filing cases, arguments, authentication of documents, presenting evidences shreds of evidence may also require amendments to the Evidence Act, acceptance of e-authentication, e-signatures, etc. This also calls for drastic changes in the Indian Criminal and Civil Procedures Acts.”

2. “The legislative underpinning of the courts’ modernization should begin boldly and immediately.”
3. “Importantly, in the entire chain of events, the litigant common-man should be an active participant and he should be able to see court proceedings through virtual media, get intimation of the hearing well in time, daily rulings not being present in the court.”
4. “The digital platforms should not be subject to hacking, cyber threats, and manipulation by vested interests. There should be strong cybersecurity systems in place.”
5. “Use of technology is not a low hanging fruit. Considerable work has to be done in integrating and linking systems, data, harmonizing procedures, creating digital structures that are user friendly.”⁸⁵

The India's judicial system of in ready dealt with numerous concerns such as vitiated infrastructure and low habitancy of judges even before the pandemic. Moreover, the uneducated are uninformed of their rights, many oft, and many approaching the court. Covid-19 has only supplemented the already existing issues and as of now, turning towards technology seems to be the only was in given ending its virtual court’s system s, the Hon'ble Supreme Court said “*there cannot be divergent views about the fact that justice cannot be spoon-fed. Justice Delivery, even at the door-steps of the stakeholders, requires the stakeholders of the ecosystem to diligently discharge their role and duties, prescribed and required in the scheme of things*”.⁸⁶

The pandemic has undoubtedly done “unparalleled impairment to the entire world, which is why such times call for tough measures. Where conventional means have failed and might seem obsolete, one must resort to contemporary methods. Hearing of cases over video-conferencing may be inefficient but is far better than a complete shutdown on court proceedings”.⁸⁷

BIBLIOGRAPHY

⁸⁵ Dr. Lalit Bhasin, “Covid-19 and its Impact on the Legal System”, Legalera (July 3rd, 2020, 7:10 PM), <https://www.legaleraonline.com/articles/covid-19-and-its-impact-on-the-legal-system>.

⁸⁶ Shikhar Shukla, “Right to Access Justice Amidst COVID-19”, Legal Services India (July 3rd, 2020, 7:35 PM), <http://www.legalserviceindia.com/legal/article-2351-right-to-access-to-justice-amidst-covid-19.html>.

⁸⁷ Id.

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LEGALITY VIABILITY LAW RESEARCH JOURNAL

1. United Nations Development Program, Ensuring Access to Justice in the context of COVID-19.
2. The Print, A.I. can Improve Judiciary System's Efficiency.
3. Vidhi Centre for Legal Policy, e-Courts in India: From Policy Formulation to Implementation, Shalini Seetharam.
4. Ministry of Law and Justice, Govt. of India, Office Order (No. L-I 10151212004-Jus, 2004).
5. E-Committee, Supreme Court of India, National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary (2005).
6. Supreme Court of India, Writ Petition (Civil) No. 5/2020, In Re: Guidelines for Court Functioning Through Video Conferencing During COVID-19 Pandemic.
7. Latest Laws, COVID-19: Has Access to Justice been Lost, Sidharth Luthra.
8. Odisha Bytes, COVID Impact on the Legal System: What Should be the Way Forward, Merusagar Samantaray.
9. Financial Express, Coronavirus has Forced Courts to Rethink on How to Function: CJI, PTI.
10. The Economic Times, Courts in the age of coronavirus: Why courts can't shut down, Santosh Paul.
11. Forbes, COVID-19 and The Reformation of Legal Culture, Mark A. Cohen.
12. Scroll, The Coronavirus Pandemic is an Unfortunate Opportunity for India's Judicial System to Modernize, Madhav Chandavarkar.
13. Civils Daily, Judiciary in Times of COVID-19 Outbreak, CD Staff.
14. Legal Era, Covid-19 and its Impact on the Legal System, Dr. Lalit Bhasin.
15. Legal Services India, Right to Access Justice Amidst COVID-19, Shikhar Shukla.

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TRIGGERS OF VIOLENCE AGAINST WOMEN IN TIMES OF COVID-19

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ABSTRACT

Given that the COVID-19 emergencies influence people in various manners, measures to determine it must consider. For ladies and young women, weaknesses in the home, on the cutting edges of human service in work the work advertise must cannot ended to. The pandemic can't be a reason to neglect ladies' conceptive rights. Wellbeing India's lockdown to straighten the COVID-19 bend has been trailed by reports of expanding aggressive behavior at home, reflecting the worldwide pattern and which UN Women has called a shadow pandemic. "Access to equity for certain ladies involves life and demise access to equity for cannot a worldwide pandemic can't be required to be postponed. Ideally legal authorities will be perceptive of ladies' needs and take additional measures to address the related difficulties."

Keywords : Covid 19 Pandemic, gender based violence, human rights, sexual orientation, law enforcement, access to justice

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INTRODUCTION

The pandemic bombarded difficulties and the world. While its effect upon individuals, organizations, enterprises etc. has not been settled in detail, one issue that has lost its significance in an outright flood is its effect on ladies. From abusive behaviour at home maltreatment and mental worry to budgetary precariousness and absence of access to human services, the infection has managed a severe hit to ladies everything being equal and over the Despite spite of where one looks, it is women who bear most of the obligation concerning to holding social requests together, be it at home, in therapeutic administrations, at school, or in considering the more seasoned. The family invests more energy in close contact when the individual stays at home simultaneously, the capacity to earn a living lessens admittance to essential needs and administrations, causing extra pressure. The interruption of social and defensive systems may additionally compound close accomplice brutality and its results. Women may have slight communication with dear ones who assure vicious accomplice. Culprits may additionally limit admittance to administrations, help, and psychosocial uphold from formal and casual systems. Casual exposed to vindictiveness may have less opportunities fewer a backup and referrals since the wellbeing division and administrations like hotlines, legit guides and emergency focuses are getting downsized. In various countries, women play out these endeavors without pay. Regardless, when the work is specialists finish the work for living willing all be controlled by women, and they will all in all pay not actual male-direct for living.

An essential piece of understanding a social issue, and a forerunner to forestalling it, is a comprehension of what causes it. Research on the reasons for savagery against women comprises of: evaluation of characteristics that affects the conduct of wrongdoers affect wrong doers that weak towards exploitation. At levels of investigation, research focused on casual elements like individual, an institutional, dyadic, and social. Investigations of ill treatment ill-treatment active from sociocultural examination where thoughts are given to the following cycle-those who force men to channel their brutality and force towards women and those who place women in the position to receive them and remain quiet.

The COVID-19 crises have thrown these sexual direction-based complexities into considerably more sharp assistance. Regional frameworks, multilateral affiliations, and worldwide budgetary establishments must see that women will expect a fundamental activity in settling the crisis, and that measures to address the pandemic and its money related consequence should consolidate a sexual direction perspective.

Situation. The situation more troubling Investigation is frequently directed a lot later and with inadequate data. Real Nonetheless, reality remains that underneath the outside of the current pandemic hides a worldwide human rights emergency for ladies.⁸⁸

This research paper tends to give suggestions to curb violence against women during COVID-19.

HUMAN RIGHTS OF FEMALES AND THEIR GUIDELINES⁸⁹.

THE RIGHT TO LIVE FREE OF GENDER-BASED VIOLENCE, TORTURE, AND OTHEDURING

Amid of crisis, the dangers of savagery to ladies and young ladies' increment. As UN Women has noted, cruelty against ladies is "the most far-reaching human rights infringement on the planet." The World Health Organization has portrayed it as "a worldwide general medical issue of scourge extents." Staying home decreases the danger of getting COVID-19. Be that as it may, for thousands and ladies and you does notes, remaining at home doesn't mean more noteworthy wellbeing, but instead more severe danger of brutality, including sexual savagery, when they are segregated with their victimizers or possible victimizers. This circumstance is alarming for young ladies.

Latin America is the main district on the planet where youngster pregnancy is expanding. This is because of high paces of sexual savagery, especially by young ladies' relatives or others near them, and absence of access to regenerative wellbeing administrations, for example, oral crisis contraception and lawful for removal; a circumstance that is exacerbated by measures, for example, curfews and by the overpowered social insurance framework. During the emergency, as law requirement organizations and the military uphold isolates and curfews all through the district, there is a differential hazard for ladies who face various types of segregation, who will, in general, be focused on more as often as possible for maltreatment by state specialists, including sex-based torment and different types of physical, mental, and sexual viciousness. In that capacity, during the COVID-19 emergency, tending to the dangers of brutality looked by ladies and young ladies related with segregation measures, highly sensitive situations, travel limitations, and other reaction estimates must be organized.

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⁸⁸Shriya Roy, *The hidden crisis: Beneath the surface of Covid lurks a human rights crisis for women*, FINANCIAL EXPRESS (August 9, 2020, 3:00 AM)" <https://www.financialexpress.com/lifestyle/the-hidden-crisis-beneath-the-surface-of-covid-lurks-a-human-rights-crisis-for-women/2049161/>

⁸⁹*Guidelines for protecting the rights of women and girls during the COVID-19 pandemic*, AMNESTY INTERNATIONAL, (August 10, 2020, 10:00 AM)" <https://www.womenslinkworldwide.org/en/files/3112/guide-for-protecting-women-s-and-girls-rights-during-covid-19-pandemic.pdf>

States should accordingly guarantee that defensive instruments for ladies and young lady casualties of viciousness stay open while travel limitations and isolate order a result. This ought to incorporate estimates, for example, the accompanying: Judicial specialists should think about broadening defensive measures, for example, limiting requests, intended to ensure ladies casualties of abusive behaviour at home and their kids or other relatives, without requirement for a conventional solicitation or different necessities. Equipped national and nearby specialists ought to guarantee that havens stay open as well as additional offices (open offices or private offices open to the general population) are made accessible for ladies and young ladies who must leave their homes while isolate orders are in actuality so as to for security from their attackers; virtual or potentially phone advising administrations ought to be given, and proper measures ought to be taken to guarantee protection for ladies and young ladies.

Administrations permitting ladies and young ladies to report viciousness and get help ought to stay open, and any administrations and lines set up to give help during the pandemic ought to incorporate measures taking into consideration the powerful revealing of instances of abusive behaviour at home, vanishings, danger of feminicide, and comparative occurrences. Specialists ought to receive the vital measures to permit search conventions to be done when ladies or young ladies are accounted for missing while isolate orders are in effect. The specialists ought to guarantee that a quick, fair-minded examination is done when there are reasonable grounds to accept that law authorization officials or fighters have submitted demonstrations of sexual savagery, torment, or other sex-based brutality. Claimed culprits ought to be arraigned as per universal procedural principles. Travel limitations ought to incorporate should cases for ladies' casual ladies' brutality who need to look for help outside the home or who escape circumstances action.

Law authorize circumstances action organizations ought to be coordinated to consider these circumstances so as to forestall to or arraignment of casualties. State to recognize survivors of dealing with individuals adequate of dealing with individuals. Help for ladies and young lady survivors of sex viciousness, including sexual brutality, ought to be viewed as a fundamental assistance using isolate. Open educational crusades on help estimates accessible during the pandemic should proceed and ought to remember data for should for ladies and young lady survivors of brutality that they can access during isolate. With the goal for isolation work, viable interchanges channels ought to be utilize should side the social removing measures set up.

i. ACCESS TO SEXUAL AND REPRODUCTIVE HEALTH SERVICES

Rights to social insurance and to access to wellbeing administrations are fundamental rights ensured under various territorial and universal human rights instruments, which build up the privilege of all people to appreciate the most significant conceivable degree of physical and emotional well-being, including sexual and re. Infringement of the rights to life, wellbeing and especially the sexual and regenerative wellbeing privileges of ladies, remembering ladies for circumstances of elevated weakness because of conditions, for example, helpful or wellbeing emergencies, are types of sex brutality that may comprise torment or barbarous, cruel, or corrupting treatment. Inability to give these fundamental administrations is a type of victimization ladies and young ladies since it puts their lives, wellbeing, and physical and mental respectability in danger.

States in this manner in extraordinary, states commitment to guarantee access to these human services administrations as per standards of nobility, uniformity, and non-separation, especially considering the scope of weakness or hazard circumstances ladies and young ladies may confront while isolate and confinement measures are in actuality. States ought to consequently guarantee accessibility the of and access to sexual and conceptive wellbeing administrations as fundamental administrations and remember them for endeavors to organize help for explicit gatherings during the COVID-19 emergency reaction, as follows: Care for pregnant and breast-feeding ladies ought to be organized. States ought to follow WHO rules on access to social insurance for pregnant and breastfeeding ladies. Deliberate end of pregnancy administrations, pre-birth care, and baby blues care ought to be viewed as fundamental administrations during isolate, and alternative courses of action received should consider. These administrations ought to be above solve making make a trip limit as to guarantee get to. States should bolster specialist co-ops' capacity to travel and proceed with their work, specifically by conceding the necessary authorizations to travel to clinical suppliers, philanthropic gatherings, and collaboration associations during seasons of isolate and separation. When travel limitations are set up, States ought to embrace measures to encourage access to willful end other for pregnancy administrations utilizing prescription and tele-wellbeing instruments. They should likewise assign post-premature birth care as a real help during seasons of isolate and disconnection. Given that delays in willful the end of pregnancy administrations might be envisioned, states whose fetus removal laws depend on a gestational cut off points model ought to consider expanding adaptability in those time limits, paying little mind to the explanation behind the end. Measures ought to be taken to underscore

care in domains and locales that have generally had more prominent boundaries to access to the administrations.

Neighborhood specialists ought to energize usage of these measures, with the help of national specialists. Crisis obstetric consideration ought to be organized during the emergency. Medicinal services administrations ought to be should for ladies and young lady survivors of sexual brutality during the emergency, remembering powerful utilization of conventions or rules for impact in every nation and as per States' human rights commitments. States ought to think about any effect on flexibly and circulation chains for family arranging strategies and receive measures to limit this effect. States ought to maintain the privilege to dynamic straightforwardness with an intersectional approach by proceeding to guarantee the dispersal, distribution, and free to data on sexual and regenerative wellbeing administrations during the pandemic and any uncommon estimates taken to garage taken access during the emergency.

ii. ACCESS TO JUSTICE

Elevated levels of exemption level the best difficulties to access to equity for ladies and young lady casualties of savagery in the area. States have a unique commitment to guarantee due consist to any in the examining discipling instances of sexual orientation brutality. The Inter-American System for the assurance of human rights has discovered that legal ineffectualness in these cases supports exemption, sustains sex viciousness, and makes an impression on society that savagery against ladies might be endured and acknowledged. The commitment to guarantee access to equity for ladies' casual ladies viciousness ought to be should seen in emergency courses of action for the COVID-19 emergency. The accompanying moves ought to be made: The limit of government organizations to get and process grievances ought to be expanded through by selecting extraordinary estimates significant to guarantee proceeded with accessibility of legal entertainers. Help and bolster administrations for ladies and young ladies tough survivors be viewed as basic during isolate, and nearby and national specialists should find a way to guarantee their proceeded with accessibility.

Casualties of brutality ought to approach adaptable methods for submitting questions and looking for assurances, for example such methods, phone, or other elective methods, considering the movement limitations as a result. Security powers and law authorization ought to organize reacting to and following up on objections of savagery objection ladies as they play out their obligations during the emergency. Any expansion of legal time cutoff points should consider the commitment to guarantee access to equity for ladies and young ladies' survivors of viciousness inside a reasonable time and

immediately. Exceptional systems ought to be set up to guarantee appropriate assortment the of measurable proof in instances of physical, sexual, or potentially mental brutality for use in court procedures. Satisfactory records ought to be kept of should of sexual orientation viciousness made during the emergency and follow-up instruments ought to be set up to should sualties and start fitting lawful activities.

iii. WOMEN AND GIRLS, MIGRATION, AND HUMAN MOBILITY

In a joint explanation, UNHCR and IOM said that the privileges of transients, evacuees, dislodged people, and people in danger of being stateless must be secured with regards to the pandemic reaction, and that even as out skirts are being shut, the guideline of non-refoulement on-refoulment be watched. Local human rights associations, as well, have focused on the significance of securing the life and strength of transients and displaced people with regards to the COVID-19 emergency considering the outrageous effect brought about by state reactions in the Americas, including fringe closings and different measures legitimately influencing these gatherings. In that capacity, the measures set up to react to COVID-19 must not be a snag to demands for worldwide security or lead to the expulsion the chance of getting to such asks for; nor can general wellbeing concerns legitimize "the deliberate utilization of migration confinement against people or gatherings of shelter searchers or evacuees."

UN specialists have approached States to take earnest measures to ensure travellers and dealt with people deal COVID action plans. The previously mentioned measures ought to apply to transient and exile ladies and young ladies, and all the more extensively, to ladies and young ladies in development in the nations of the district, pay district's nation migration status. Outskirt closings will expand the utilization of undercover fringe intersections, setting ladies and young ladies at more severe us danger of savagery, misuse, and dealing with people, especially dealing for the motivations behind sexual abuse. States ought to accordingly embrace gauges that consider the differential effect of the emergency on women and young ladies in development, including the accompanying: Put set up conveyance components for transients and remember access to human services and counteraction frameworks for pandemic alternate courses of pandemic heed to their transitory status. Guarantee access to fundamental social insurance administrations, including sexual and regenerative wellbeing administrations, for ladies and young lady transients, as per the above rules. States should expand limits and reinforce the execution of conventions for recognizable proof and help for casualties of dealing with people, especially in places where outskirts are shut or movement is confined with regards to the emergency. Migration specialists ought to consider consequently expanding time limits for

movement procedures, evacuee applications, and authorizations to travel or other fitting measures to give traveler ladies travelling ladies full access to wellbeing administrations and social advantages which are accessible to the remainder of the populace during the pandemic, in accordance with current universal guidelines.

Given that the area has critical human versatility and compassionate emergencies identified with constrained relocations, States should set up clear rules to guarantee that helpful guide gatherings may keep on playing out their work, especially those helping casualties of sex brutality or giving fundamental sexual and regenerative wellbeing administrations, with regards to pandemic reaction endeavors. Nearby specialists should aid these endeavors, including the essential licenses for medicinal services staff so they can go in wellbeing. States that confine travellers and haven searchers in an oppressive way dependent on their migration status, setting them at more serious of COVID-19 disease, should discharge them quickly and watch the guideline of utilizing detainment just in outstanding conditions. They ought to guarantee that transients approach lifesaving clinical help without separation.

CHALLENGES FACED BY THE WOMEN DURING COVID-19

A. Domestic violence:

In India, wrongdoing is observed against ladies in every 1.7 minutes and at every 4.4 minutes, a lady is subjected to aggressive behavior, as per the Crime in India Report 2018, distributed by the “National Crime Research Bureau (NCRB). It additionally bested the classes of savagery against ladies as indicated by the report. According to the information, 89,097 bodies of evidence identified with violations against ladies were enrolled all over the country in 2018 which is higher than the 86,001 cases registered in 2017

It was featured in “The National Family Health Survey (NFHS-4), 2015-16” that 30 per cent of ladies aged between 15-49 in India have encountered human viciousness. Among wedded ladies encountering bodily, sexually, or psychological mistreatment, a disturbing 83% list spouses as the main culprits, trailed by maltreatment from husbands' moms (56%), fathers (33 %), and kin (27 %).⁹⁰

The above-mention measurements as mentioned above information on brutality against ladies completely. This is essential because of the pervasiveness of standard accepted practices and the shame than on overcomers of sexual or abusive behavior at home, bringing about cases being terribly

⁹⁰Arjun Kumar, Balawant Singh Meheta, Simi Meheta, The link between lockdown, COVID-19, and domestic violence, (April 17, 2020)”, <https://idronline.org/the-link-between-lockdown-covid-19-and-domestic-violence/>

uneducated. Ladies additionally feel perilous while moving toward the police, since they stress that if their accomplices are captured, they may confront awful maltreatment once they are discharged, and in the meantime, may confront provocation from their parents in law or others.

During lockdown in India, the “National Commission of Women (NCW)” noticed an increasing quantity of abusive behaviour at home. The NCW’s administrator accepts that the figure is going to increase because, the central part of objections originates from women who post their will nuances, and probably won't have the option to utilize the web. In between March and April, the NCW received three hundred ten complaints of abusive behaviour at home and 885 protests for different types of savagery against ladies, a large number of which are local, for example, plural marriage, polygamy, settlement passing, and provocation for share.

The number of cases announced arise doubt not corresponding to the genuine ascent in abusive behaviour at home. This is on the grounds that individuals secured with their victimizers because in admittance to a cell phone, nor the reality to reach for help. Roads to seek help or expel themselves from circumstances are crippling.

Confined in a place with vicious or cunning people could lead to expanded rates and dangers of, physical, sexual, and mental maltreatment, embarrassment, terrorizing, and controlling conduct. The capacity to detach an individual from loved ones, screen, the lockdown increases the capacity to detach an individual from loved ones, screen their developments, and confine access to monetary assets, work openings, training, or clinical consideration essentially influence psychological well-being and prosperity.

Exactly when governments start collecting means to respond to crises, for instance, COVID-19, keeping an eye on violent conduct at home ought to be sorted out. In India, it can be observed that the organizations have taken no notice to set up violent conduct at home and vigorous health consequence into overall welfare and crisis management against the coronavirus pandemic.⁹¹

The need of the hour is to make our country healthy campaigns that may spread awareness about injuries that people suffer at home and highlight the various modes through which complaints can be recorded. National news and radio channels, online networking stages etc. should be deliberately utilized, like the manner by which the administration as sent battles supporting of hands regularly to battle coronavirus.

⁹¹EPW Engage, COVID-19, Domestic Abuse and Violence: Where do Indian Women Stand?(April 17, 2020, 7:54 PM), <https://www.epw.in/engage/article/covid-19-domestic-abuse-and-violence-where-do>

Residents must be sharpened towards the expanded dangers of aggressive behaviour at home, and spectators and neighbours ought to be encouraged to intercede on the off chance that they speculate misuse, utilizing strategies should example, the hitting into the entryway or ringing the chime. They ought to likewise be given the such aspect in the event that they decide to report a case.

At cannot point when individuals can't document objections through for calls, basic administrations, clinics, supermarkets, and stores must be equipped to assist individuals in seeking help and contacting specialists. In Spain and France, drug stores are preparing to recognize individuals confronting maltreatment through codewords: requesting 'veil 19' is being u, and drugged as a cocannotr individuals who can't talk transparently, to demonstrate that they are being mishandled and are looking for help.

Common society associations are basic to giving help. Several philanthropies are attempting to empower access to clinical help, lawful guide, advising, 2for7 haven needs, etc. In this manner, in its endeavours to battle, the legislature must permit common society associations, guides, emotional wellness associations, and other specialist co-ops to go to the guide of individuals confronting abusive behaviour at home. Connecting with individuals confronting abusive behaviour and trouble should be named a 'fundamental assistance' by the administration.

B. Reproductive rights violation:

The pandemic has influenced regenerative administrations, for example, maternal wellbeing, family arranging, and fetus removal benefits unfavourably. While clinical offices and retail scientific experts were absolved from the lockdown, the controls on development, just as upgraded dread of contamination among patients, and wellbeing suppliers, brought about low accessibility of administrations. The Government of India regarded "RMNCAH+N (Reproductive, Maternal, Newborn, Child, Adolescent Health and Nutrition)" India' administrations in April, and it proceeded to be a major test.⁹²New born ponents affecting the utilization of essential wellbeing administrations are on both the positive and negative sides. On one side, there are worries of presentation, lack of Personal Protective Equipment, staff members being tainted and under isolation reallocation and absence of prepared staff persons, substandard wellbeing foundation, work force, and lack of beds. Various reports suggest that wellbeing offices are often overpowered by extensive COVID-19 patients' workforce proper treatment, particularly in the hotspots. On the other side, no data is available on the

⁹²Renuka Motihar, [The impact of COVID-19 on reproductive health services](https://idronline.org/the-impact-of-covid-19-on-reproductive-health-), IDR, (June 25, 2020 5:00 PM), <https://idronline.org/the-impact-of-covid-19-on-reproductive-health->

status of accessible management, while the expanded feelings of dread and worries of being uncovered, exacerbated by the way that RMNCH office access not remain solitary (as they are generally accessible in medical clinics).

The circumstance has prompted inclination of the nation maternal, infant, and kid mortality that can be prevented.

C. RAPES DURING COVID-19

The cases of sexual offences have increased during the pandemic. There are many cases that have arisen like for example, a 33-year-old-man was held accused of raping and torturing a 12-year-old girl in her. Many cases have cases of rapes at the COVID-19. A 15-year-old girl was raped by two persons at the COVID-19 center at South Delhi.⁹³ A 14-year-old young lady in a Covid-19 isolate focus in India's capital Delhi was purportedly explicitly attacked by another patient inside the office.⁹⁴ A 28-year-old woman was raped twice by the doctor in a Covid-19 center at Aligarh.

These are some of the cases that are mentioned here. Such horrific things occur as the of surveillance and no preventions for the people at the center. There must be some measures followed by the staff to prevent such crimes occurring in the centers like the surveillance must be strict, there must the staff must follow some measure.

The consequences on Women's Health and Rights

In 2005, "The Protection of Women from Domestic Violence ACT (PWDVA or Domestic Violence Act)" came into force. Be that as it may, as Flavia Agnes remarked in 2019, "considerably following 10 years and a large parties Act of, the affirmations made in the have not been completed when we look at the cases which are documented this demonstration. "Citing past occurrences through her significant involvement in ladies' privileges associations, Agnes contended that while the demonstration itself expanded the idea of residential maltreatment to envelop additionally physical yet in addition mental, enthusiastic, mental and financial maltreatment and presented space for prompt, defensive denials, nearby monetary and including recovery and repayment. As this case illustrates, its

⁹³ DNA Web Team, Two held for raping minor inside COVID-19 care centre in South Delhi, BBC News, (July 24, 2020), <https://www.dnaindia.com/delhi/report-two-held-for-raping-minor-inside-covid-19-care-centre-in-south-delhi-2833784>

⁹⁴ HT Correspondent, 14-year-old patient raped in India's largest Covid-19 facility, Times of India, (July 24, 2020), <https://www.hindustantimes.com/delhi-news/minor-raped-in-covid-care-centre/story-zMgjZBLGrEqdkgAGmDRLdM.html>

centrality has ever, innovation will be at the center of our "new typical" and crossing over the computerized hole will expand young lady's and ladies' odds of getting to instruction and occupations. Abuse of women, and domestic violence in particular, is a social evil while women vulnerable and disenfranchised. Researcher pinpointed the disturbing prevalence of domestic India, where that men have little prospects of resolving their situations and unlike developed countries, women rarely have access to assistance and therapy ich leads to obstetric problems and adverse outcomes of pregnancy.

V. Unlike health determinant is a slightly less debated topic, even though it has a significant effect on the degradation of health and mortality worldwide. The Sustainable Development Goals will only be achieved when all forms of abuse, particularly towards women, are eradicated. In obvious sense, all types of brutality are interrelated and influence ladies, , even before their introduction to the world and until their passing.

CONCLUSION

Policymakers need to fuse a sexual orientation investigation into the advancement of COVID-19 approaches and as the pandemic unfurls, there is dire requirement for sex-disaggregate see how ladies and men are influenced by the infection. Understanding the effect of lockdowns on lasex could prompt the turn of events and usage of other viable arrangement measures. Strategy alternatives to guarantee strategy reactions represent sexual orientation coordinating sex sway evaluation cycles and devices in crisis the board. This reconciliation requires a well-working arrangement of sex mainstreaming, prepared admittance to sexual orientation dis-totalled proof in all divisions, and specialized abilities. Sexual orientation planning can help guarantee that a sex point of view is applied to measures remembered for the monetary boost bundle, and permit governments to comprehend the aggregate effect of the bundle on sex correspondence destinations. Additionally, surveying the gendered parts of limiting interruptions and Kee bundle's ping up flexibly departmental things is probably going to prompt better results for all, mean and ladies.

Notwithstanding COVID-19 pandemic, sexual and conceptive wellbeing administrations Wille essentiaghts and wellbeing of these ladies must be focal contemplations as governments and different partners define their reaction to this general wellbeing emergence These ladies give for well-being wellbeing administration: Abortion access is basic safeguard the life and strength of pregnant individual as well as beginners that sabotage admittance to fetus removal care will constrain individuals to search out dangerous premature birth administrations or administrations later in

pregnancy, putting their lives and wellbeing in danger. Eliminate legitimate and authoritative obstructions to premature birth administrations, including to Medical Abortion. Follow the Minimum Initial Services Package for Reproductive Health, a universal norm of care that ought to be actualized at the beginning of each crisis, including general wellbeing crises. This need set of lifesaving and basic administrations incorporates obstetric, pre-birth, and postnatal consideration; preventative data and administrations, including crisis contraception; and post fetus removal care and post-assault care. Guarantee convenient admittance to contraception, including crisis contraception. Upset flexibly chains and reallocation of wellbeing assets during COVID-19 can impact sly affect admittance to contraception.

Unqualified money move to lady's ledger hold chains and reallocation of wellbeing assets flexible lyra-family unit status of female recipients under however many plans as would be prudent to guarantee most exits reach. Building a definite political promise to applying a sexual orientation point of view to strategy reactions committing assertion of financial, social and ecological needs across necessary zones stressed by the emergency.

As the lockdowns are facilitated, making open data entryways on work accessibility would support the two people coordinate with expected businesses, particularly in urban territories. Like never before, innovation will be at the center of our "new ordinary" and crossing over the advanced hole will build young ladies' and ladies' odds of getting to instruction and occupations.

In fact, we are just learning the financial ramifications of this wellbeing emergency as it unfurls. So as to address any gendered impact consider the way that the transient ramifications may vary from the long haul. There might be powering in the two bearings, lessening as opposed to expand how. Strategy choices to help survivors of sexual orientation-based viciousness Guaranteeing that administration conveyance for casualties is coordinated across applicable circles —, for example, wellbeing, social administrations, instruction, business, and equity — and that casualties needs and security are viewed as while moving towards all the more electronically-based methods of correspondence during the COVID-19 emergency. Receiving an "entire of-government" and hazard-based way to deal with end IPV, so all open organizations are occupied with this issue in an intently coordinated way, and guaranteeing that ideal admit to equity stays unblemished or is re-forced during this period. Pushing back on social acknowledgment of aggressive behavior at home, to some degree by causing to notice how this issue influences ladies in restriction. We should, acknowledgement have adaptability strategy apparatuses to address ladies' interests as the impacts of the wellbeing emergency Hence two should time.

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“Access to equity for certain ladies and demise access to equity for well-being cannot worldwide pandemic can't be required to be postponed. Ideally legal authorities will be perceptive of ladies' needs and take additional measures to address the related difficulties.”



LRJ- ALLYING LAW WITH SOCIETY

COVID-19: EFFECT ON EDUCATION SYSTEM

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ABSTRACT

This paper dissects the impacts of COVID-19 containment on the self-ruling learning execution of understudies in advanced education. COVID-19 is an infectious dangerous disease which is caused by a virus named coronavirus. Coronavirus flare-up has disrupted the dangerous in factious an enormous effect on the education framework of India as well as of the other countries too. The unexpected administration of grounds as a social India' measure to eye-to-eye class electronic learning structures. These has thrown the consider an eliminating social appliances and stages for great ordinary understudy responsibility which may have limits and favourable circumstances of transparency and moderateness individual understudies. The pandemic has uncovered the shortcomings of the current high level training system and the prerequisite for high-level getting ready of teachers in modernized innovation to acclimate to the rapidly changing tutoring climate of the world. In worlds the post-pandemic condition, the urning and virtual preparing may transforaminal piece of the high-level usage training system. The high-level training foundations and universities need to plan the post-pandemic preparing and assessment strategies to ensure understudy learning results and rules of educational standard/quality.

Keywords- Covid-19, Impact, Economy, Education, E-Learning, Appliances, Stages, Standard

INTRODUCTION

It is a well-known fact that COVID-19 virus has originated from Wuhan, China and has quickly and steadily spread to various countries in the world. It was declared a pandemic situation on March 11th, 2020 by World Health Organization (WHO). The pandemic has created the worst situations for human she as devastated economies and educational systems worldwide developing and developed countries. All the colleges and various educational institutions were suddenly closed, social distancing was maintained at par, which helped reduce the fatality rate from the disease.

According to a sure UNESCO survey more than 90% of the students and youths of the world have been affected by the pandemic. According to the instructions given by the WHO, schools, colleges, universities were closed. All the examinations, entrance tests were cancelled or postponed. The pandemic has proved to be an exceptional case in the history of the education system.

The Ministry of Health and Family Welfare of India has brought issues to light about flare-up and has made fundamental moves to control the spread of COVID-19. The focal and state governments are taking a few measures and figuring a few wartime conventions to accomplish this objective. Also, the Indian government 55-days lockdown also all through the country that began on March 25th, 2020, to lessen the transmission of the infection. This episode is inseparably connected to the economy of the country, as its country's economy mechanical areas since individuals overall are as of now careful about taking part in business in the However, influenced districts.⁹⁵

But yes, the lockdown has created many opportunities for students and professionals to explore different horizons. This lockdown has helped students to come out of classrooms and has entered into a digital era. Initially, students, professionals and various educational institutions were confused as to how the classes will go on. The about eventually online mode has opted. People all over the world have managed to learn how to manage and cope up with such pandemic. We will have a glance in the present paper.⁹⁶

OVERVIEW OF EDUCATION SYSTEM IN VARIOUS COUNTRIES:

⁹⁵ Shazia Rashid and Sunishtha Yadav Impact of Covid-19 Pandemic on Higher Education and Research (15 August 2020, 3:32 PM)

https://www.researchgate.net/publication/343820992_Impact_of_Covid19_Pandemic_on_Higher_Education_and_Research

⁹⁶ Pravat Kumar Jena. Impact of Pandemic COVID-19 on Education (10 August 2020, 4 PM)

https://www.researchgate.net/publication/342123463_Impact_of_Pandemic_COVID-19_on_Education_in_India

<https://blogs.worldbank.org/education/managing-impact-covid-19-education-systems-around-world-how-countries-are-preparing>

Covid-19 has created many opportunities, challenges that have helped the educational institutions to strengthen themselves. Many online platforms like Zoom, teams, Google meet, Facebook, Skype etc. were widely used for the purpose. A lot many What are stated for many classes students' groups etc. for online teaching and others.

By end of February, being alert by the spread they were of Corby the end of world bank started making guidelines for social distancing, economy and coping measures. Initially, China ordered for closure of school's institutions. Then event Eventually, more countries all over world-wide it and announced the closure of educational institutions affecting billions of students. It has worse affected the most vulnerable students. Through schools and colleges, the However, said to get a mid-day meal. But by being present at home, they pose a burden on their parents. Also, for doing online classes, parents may face challenges.

The low-income countries constitute a significant threat and a point to worry about. These countries do not have reported much or sometimes no cases of Corona. This situation creates two aspects at the world level: whether they should help them or wait and see the spread of disease? The relatively which is quite considerable own creates a huge risk in all sector of the country including education.,

In a country like India and many others school clothes for main closures social distancing and these school, these sometimes used as a treatment centre.

In countries like Afghanistan, Egypt, Russia, Belarus, Liberia etc, schools were remained open and preparedness, level was enhanced. This includes enforcing preventive actions in educational institutions. Various limitations were put, up and extra-curricular activities and physical contact were reduced institutions took various measures to awareness about infections around.⁹⁷

In the country of Bulgaria, all E-books, Pdfs, files for grade 1-10. These files were asked to be kept accessible to all. Two tv channels were fully dedicated to education broadcast. 800,000 plus accounts were created for students, parents etc. for making learning easier.

In a country like China, Germany, Saudi Arabia everything has been kept online. They have fully adapted the distant learning system.

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⁹⁷ Kaliopé Azzi-Hucktigran and Shmis , Managing the impact of COVID-19 on education systems around the world: How countries are preparing, coping, and planning for recovery (29 August 2020, 9:15 PM)
<https://blogs.worldbank.org/education/managing-impact-covid-19-education-systems-around-world-how-countries-are-preparing>

Many countries have reduced the cost of accessible online Pdfs, files, videos etc as directed by their respective education ministry.⁹⁸

ONLINE CONTINUOUSLY GLIMPSE

This crisis constantly matched with proitising circumstances. Also, it's an ideal opportunity to value the maximum capacity of innovation for learning. In the wake of this health-related crisis and remembering the understudies' well-being alongside their scholarly concern, various partners in the instruction space have been embracing web-based realizing with the goal that the learning just more significant and do not recede. The greater part of non-public schools and other instructive foundations have started compulsory virtual classes consistently, and along these lines, instructors are unfailingly sharing their exercises over skype call, zoom call or some other virtual class alternatives to keep the learning on. Any place and at what tired, the preparation is given to understudies and educators through recordings to utilize innovation to encourage virtual classes. Some instruction establishments are likewise giving pre-recorded recordings of exercises to understudies where educators clarify the themes widely.

With this significant ability not too far off, EdTech major parts in India have additionally chosen to willingly volunteer to help understudies stay at home without settling on their exercises. These organizations are making advancement, offering free admittance to their courses during a period that commonly hails off the test season.

Simultaneously, the move has been met with a staggering reaction from the understudies.

The advanced learning stages said the understudies with full admittance to the examination material just as permit them to participate in online classes and associate with the instructors like the actual study hall setting. The input is empowering from the two instructors and understudies. Understudies are maintaining the learning plan and presenting their tasks on schedule. This adds to the customized learning of understudies.

There are numerous different advantages significantly computerized or virtual classes, particularly advancing understudies' voice and decision, and adaptable learning pace, and the capacity to learn whenever from anyplace. Versatile learning is one of the methods for method learning encounters, to

⁹⁸ Kaliopé Azzi-Hucktigran and Shmis, Managing the impact of COVID-19 on education systems around the world: How countries are preparing, coping, and planning for recovery (30 August 2020, 5:00 PM)

empower powerful and custom-made learning ways to draw in understudies and address their requirements.

- 1) Indeed, even the Government of India advances computerized learning through its different e-learning stages like SHAGUN, Diksha, e-Path Shala for the understand and e-Path Shala **ID-19 on schooling**

Although the flare-up of COVID-19 has made many negative impacts on training, instructive establishments of India have acknowledged India's ledged the demands and make effort to give consistent help made is to the understudies during the pandemic. Indian training framework got the chance for change from customary framework to another period. The accompanying focuses may be considered as positive effects.

Move towards Blended Learning: COVID-19 has quickened selection of computerized advances to convey training. Instructive foundations moved towards a mixed method of learning. It energized all educators and understudies to turn out to be more innovation shrewd. Better approaches for conveyance and appraisals of learning opened colossal openings for a significant change in the region of educational program advancement and teaching method. It likewise gives admittance to enormous pools of students all at once.

Rise being used of Learning Management Systems: Use of learning the executives' frameworks by instructive establishments turned into an extraordinary interest. It opened an extraordinary chance for the organizations that have been creating and reinforcing learning the board frameworks for use instructive organizations (Mishra, 2020).

Enhance the utilization of delicate duplicate of learning material: In a lockdown, could notice understudies couldn't gather the printed copies of study materials and consequently a large portion of the understudies utilized of delicate duplicates materials for reference.

Movement in community work: There is another opportunity where community instructing and learning can take on for structures. Joint efforts can like with occur among workforce/educators across the world to profit by one another (Mishraworldwidein online gatherings: The pandemic has made an enormous ascent in video chatting, virtual gatherings, online courses and e-conferencing openings

Enhanced Digital Literacy: The pandemic circumstance-initiated individuals to learn and utilize computerized innovation and brought about expanding advanced education.

Improved the utilization of electronic media for sharing data: Learning materials are divided belated understudies effectively and the connected questions are settled through email, SMS, calls and utilizing unique social Media like WhatsApp or Facebook.

Worldwide openness: Educators and students are getting occasions to interface with peers from around the world. Students adjusted to a global-local area.

Better time the board: Students can oversee their time all the more in online training during pandemics.

Demand for Open and Distance Learning (ODL): Dromore significant widespread pandemic condition the greater part of the understudies favoured open and distance learning mode as it empowers self-layer. It living occasions to gain from different assets furthermore, altered learning according to their requirements.⁹⁹

THE NEGATIVE EFFECT OF COVID-19 ON INSTRUCTION

The training area has endured a ton because of the flare-up of Coronavirus. It adversely affects instruction and some of them are as pointed beneath:

Educational action hampered: Classes have been suspended and tests at various levels deferred. Various sheets have just delayed the yearly assessments and passageway tests. Confirmation measure got deferred. Because of congruity in lockdown, understudy endured a deficiency of almost 3 months of the full scholastic year of 2020-21 which will additionally break down the circumstance of congruity in training and the and much would confront a lota big in continuing tutoring once more after an immense hole.

Impact on work: Most of the enrolment got delayed because of COVID-19 Placements for understudies may likewise be influenced with organizations drying the on leading body of your studies. The joblessness rate is required to be expanded because of this pandemic. In India, there is There in Govt. area and in India new alumni dread withdrawal of their work offers from private areas on account of the current circumstance. The Center for Checking Indian Economy's appraisals on joblessness shot up from 8.4% in mid-March to 23% toward the beginning of April and the metropolitan joblessness rate to 30.9%. At the point when When cements at that point the instruction steadily diminishes as individuals battle for food instead of instruction.

⁹⁹ Pravat Kumar Jena. *Impact of Pandemic COVID-19 on Education* (10 August 2020, 5:00 PM)
https://www.researchgate.net/publication/342123463_Impact_of_Pandemic_COVID-19_on_Education_in_India

Unprepared instructors/understudies for online education: Not all educators/understudies are acceptable at it or possibly not all of them were prepared for this unexpected change from face-to-face figuring no more significant to internet learn in greater part of the educators are simply leading talks on video stages, for example, Zoom, Google meet and so on which may not be genuine on the web learning with no committed web-based learning stage.

Reduced worldwide work opportunity-Some may lose their positions from different nations and the drop understudies may not land their position outside India due to limitations brought about by COVID-19. Numerous Indians may have gotten bac after losing their positions abroad due to COVID-19. Thus, the new understudies who are likely to enter the work market in good confront trouble in getting reasonable business. Numerous understudies who have as of now landed through grounds meetings may not be ready to join their positions because of lockdown. The Indians who have been managing their responsibilities abroad may lose their positions. Late alumni in India are of additionally dreading for This preprint research paper has not been peer investigated. Electronic duplicate accessible at the withdrawal of bids for employment from corporate areas because of development limitation in the current pandemic circumstance.

The increased obligation of guardians to instruct their wards: Some informed guardians can control however some might not; have the sufficient degree of schooling expected to show kids in the house.

Loss of sustenance because of school conclusion: Midday suppers is a school supper program of the Government of India that intends give better the wholesome food to young youngsters across the country. The allusion of schools has genuine ramifications on the everyday nourishment of understudies as the noontime feast plans have briefly been closed. Different investigations have brought up that late morning suppers are additionally a significant contributing variable for expanded enrolment in the schools

Access to the advanced world: As numerous understudies have restricted or then again, no web access and numerous understudies may not be capable to of managing cost of PC, PC or supporting cell phones in their homes, internet educating learning may make an advanced split between understudies. The lockdown has hit the helpless understudies hard in India as a large portion of them are incapable to of investigating internet picking up as indicated by different reports. In this way, the web-based educating learning strategy during pandemic COVID-19 may improve the hole between rich/poor and metropolitan/rustic.

Access to worldwide instruction: The pandemic has essentially upset the advanced education area. A huge number of Indian understudies who have tried out numerous Colleges abroad, particularly in most noticeably awful influenced nations are currently leaving those nations. If the circumstance perseveres, over the long haul, a there will be a huge decrease in the interest for global advanced global education.

Payment of Schools, College's expense got postponed: During this lockdown, the vast majority of the guardians will confront the joblessness circumstance so they will be unable to pay the expense for that specific time-frames which may influence the private foundations.¹⁰⁰

EFFECTS ON LIFE OF STUDENTS

The online learning has many ill effects also. It affected students' mental health and physical health. Many studies and surveys have concluded that student the crisis is, students and to fall in the trap of ill mental health which includes the feeling of loneliness, depression, anxiety, strandess. This all happened because of being distant suddenly from their peers and continuous changes in social life.

Students giving online examinations were having another level of stress and depression. Most of the students belonging to rural areas do not have access to laptops or smartphones. There can be a connectivity issue while giving tests or exams. Failure or loss of exams will create such issues.

Most affected students are the final year college students. Their life was about to start. Without the final year degree, no company or firm or any unity will accept the final year students for their next step.

In some Students even certificates and mark sheets based on their periodic or unit test or class performance. What in some colleges and schools about those students who have had scored less in their internal assessments?

Competitive exams like NEET, JEE, CLAT etc. remained unclear for a did time and didn't take place on the date on which it was supposed to, the educational bodies of the respective examinations have been postponed due to the crisis which genuinely affected a large section of the country's student population who has been preparing for it for more than a year. The crisis put a question mark on the date of the all-India exams the dates of which had been announced much earlier.

¹⁰⁰ Pravat Kumar Jena. Impact of Pandemic COVID-19 on Education (10 August 2020, 7:00 PM)
https://www.researchgate.net/publication/342123463_Impact_of_Pandemic_COVID-19_on_Education_in_India

With the Covid driving school terminations and restrictions on gathering social events, numerous arrangements and measures are being presented for the tests that understudies have been planning to take. There are three fundamental elective methodologies.

INITIATIVES

The government of India has significant can practical effective steps to curb the pandemic. It has also introduced many e-learning apps and platforms to help students and their, education should not /. The Government of India has taken every possible measure to reduce the difficulty of the citizens of the counter country's citizens lockdown for all schools, colleges, universities on 16th March 2020.

UPSC¹⁰¹ declared that the interview is postponed for civil services. All the State governments have also taken strict and careful steps to ensure that due to closure of education students' academic activities do not get affected al institutions, academic activities of streated by the MHRD¹⁰² for +2 and higher education during such pandemic are as follows: -

E-Path Shala: It is an app launched by NCERT¹⁰³. It contains multi-language contents for class 1-12 and contains books, audio, video etc.

NROER:¹⁰⁴ It provides almost the same series as e-path Shala However, multiple languages. But this not limited to only NCERT.

Diksha: This online portal contains video lessons, textbooks, worksheets etc. the materials are uploaded under the guidance of CBSE, NCERT in multiple languages. The QR code given in books can be scanned and the contents can be viewed here on the Diksha portal.

Swayam: the app contains 1900 courses that cover syllabus from class 9-12. It is a national education app which contains topics of containing social science etc.

Swayam Prabha: The initiative contains 32 DTH Tv channels. These channels broadcast 24*7 all educational contents. The app contains details and all content schedule are given here. The channel

¹⁰¹ Union Public Services Commission

¹⁰² Ministry of Human Resources and Development

¹⁰³ National Council of Education and Training

¹⁰⁴ National Repository of Open Education Resources

covers various secondary and high school topics like engineering courses, UG subjects, PG, +2 topics, law, medicine, agriculture and many more to help students.

E-PG Path Shala: The PG students. The app can be accessed without any internet connectivity also. Online courses, books, and other study materials can be easily accessed from here.¹⁰⁵

REOPENING OF EDUCATIONAL INSTITUTIONS

Across the globe, the most decision is to whether and how to reopen schools? Different countries like India, US, Tokyo, Germany and many more are taking different measures and approaches to re-open schools.

Some countries have re-opened educational institutions but with much caution. Reopening of schools will warmly welcome another wave of Corona. Outbreak.

Also, re-opening schools will be very costly. PPE kits would be a must in schools, colleges to be worn or materials like masks, face shields, cleaners, plastic shields and extra cost for extra teachers, staffs will be required as soon as these will re-open. In Taiwan, the government have not closed most of the schools, they provide new masks and other materials per two, and they.

Temperature checking will be necessary at the entry gate of the educational institutions.

Educational institutions will need to divide students and faculty into groups. Only half of the students will be present in a class with at least 6 ft distance between them. In Tokyo, half of the students attended morning classes and another half, evening class. Also, students can be brought like half on Monday, Wednesday and other sets on Tuesday and Thursday and so on.

Testing camps can be made at universal tools so that students can be checked up there regularly. In Germany, a school has offered free testing camp for students to be checked up their weekly.

In-country like India, where many do not have a proper internet connection, students rely on Government e-portals. State government are taking approaches as to how to re-open schools, colleges with proper prevention and safety.¹⁰⁶

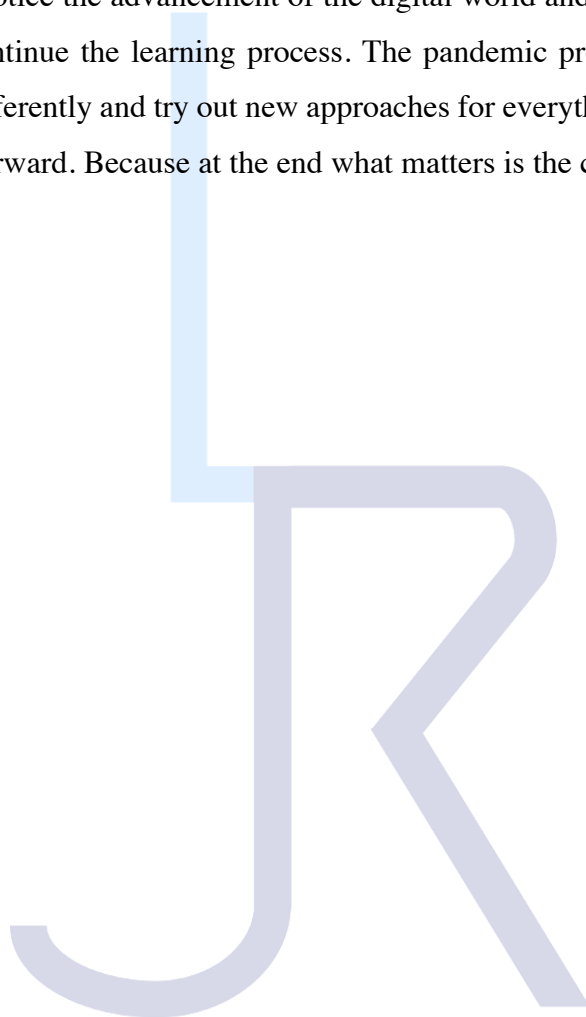
LRJ- ALLYING LAW WITH SOCIETY

¹⁰⁵ Pravat Kumar Jena *Impact of Pandemic COVID-19 on Education* (10 August 2020, 5:00 PM) https://www.researchgate.net/publication/342123463_Impact_of_Pandemic_COVID-19_on_Education_in_India

¹⁰⁶ Claire Felter and Lindsay Maizland, *How Countries Are Reopening Schools During the Pandemic*, (17 April 2020, 5:30 PM) <https://www.cfr.org/backgrounder/how-countries-are-reopening-schools-during-pandemic>

CONCLUSION

The whole system of education has collapsed due to this pandemic. At the end, what matters is preparedness. All the appearance inches, measures taken by different countries at large and education at their level will matter and will cope and fight with the pandemic if we prepare well and re-start. It is assumed that the virus spreads in waves. What we need to do is to continue living could not pandemic and we couldn't forget to notice the advancement of the digital world and the help which has done to make things easier and continue the learning process. The pandemic proved a new experience and helped students to think differently and try out new approaches for everything. The time needs ever to work together and move forward. Because at the end what matters is the children, youth, which is the pride of a nation.¹⁰⁷



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¹⁰⁷Lokanath Mishra, Tushar Gupta, Abha Shree, Online Teaching-Learning In Higher Education During Lockdown Period Of COVID-19 Pandemic (30 April 2020. 5:55 PM)
<https://www.sciencedirect.com/science/article/pii/S2666374020300121>

**ENDANGERED REFUGEE RIGHTS IN THE CATASTROPHE OF
COVID-19**

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ABSTRACT

Human rights are basic moral laws and fundamental principles which should be given to everyone and must be followed that everyone by ever follow on continue with the individual right from their coming to existence to their last breath. Human Rights are regardless of discrimination among people. The theory behind this is, we are human beings first and then comes our factors of differences, like religion, region to, country, class, caste, race, sex, etc. Among these, there are refugees, who are considered the most vulnerable group of people all over the world. Refugees are people who fled world-wide country to avoid peruelty and cross international borders to other states to seek asylum and protection. Various international agencies and UN bodies like the UNHCR works diligently for the protection of the do not augees so that they don't face any discrimination However, in asylum states. But their treatment is often terrifying in Refugee camps. This phenomenon has increased its frequency during this pandemic of the Novel Coronavirus. The ill-treatment caused to the Refugees has led to their violation of Basic Human Rights which ought to be respected by the asylum countries.

This paper revolves around the current situation of various underprivileged people over the world. It deals with the violations of Human Rights. The paper concentrates on the breach of the Basic Human rights of Refugees over the world during the pandemic of this Novel Corona Virus. This pandemic has made the woofers quite some time. Pandemic various lockdowns, emergencies, curfews, had led the refugees to suffer a lot at such time. This paper describes the various basic Human Rights of the refugees which are granted to them through various International Conventions and Laws. Rich has brought this to my knowledge that religion, political affiliation, racism, class discrimination are the main reasons for refugees. This paper also explains a fine line between the Migrants and Refugees. This paper aims at highlighting the problems faced by the Refugees in Refugee Camps highlights suit swinging through borders for asylum and how the International agencies and various countries have neglected their Basic Human Rights and treated them recklessly. The paper has tried to infer that it is

high time that measures for protecting the Human Rights for refugees must be taken. The private parefugees' human rights measures need to stand as a pillar and play a vital role in the activities of the UNHCR and actively worldwide such situations. Desperate times need desperate remedies; the government cannot be pressurized to provide the people with everything and neglecting their citizens. It is very important at this time that the resources in need should be judiciously use appropriately channel lisedoperly to gain the matter whatever available.

INTRODUCTION

There are many western copious democracies that are parties to the United Nations Refugees conventions and they are devoted Many western copious democracies are, but these countries are also disbursing billions of funds to strengthen their borders.

Whether the conventions signed by these countries which ensure the rights of refugees are merely a myth or do they want to do regarding the rights of refugees. Now the quethat arises-refugees **ho is an** urge is a person, who has fled his or her own country to avoid war, persecution, and cruelty, and is deliberately made to refugeeum in the countries. These people are called asylum seekers until they are given the status of refugees by the UNHCR. The UNHCR (United Nations High Commissioner for Refugees) is an agency of the UNHCR gives them the status of refugees towards their resettlement to a third country. It was founded in the year 1950, and to regulate the rules for refugees internationally the 1951 Refugee Convention was introduced. According to this nonrefugees are defined as “someone unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”¹⁰⁸

Refugees are considered to be the most endangered and sensitive human species in the world. They are mostly prone to brutality, cruelty and misbehavior. The UNHCR declared that, by the end of 2019, there were 79.5 million refugees in most worldwide.¹⁰⁹ In 1921, the *League of Nami's behaviour* up with the status of International Refugee, after the World War II which led the fleeing of a large count of people from Eastern Europe. International Refugee's status gain terandined in the 1951 Convention. What concern number most are the reasons behind their fear of persecution and cruel they have they done that they've to flee their own country, leaving behind their society, family, friends, possessions,

¹⁰⁸The Refugee Convention, 1951

¹⁰⁹2. UNHCR, *Global Trends: Forced Displacement in 2019*, <https://www.unhcr.org/globaltrends2019/>

jobs and to take asylum in other countries and being dependent on others? It has been found that in almost all the cases the reason behind their refugee status is their race, religion, nationality, political opinion or affiliation a social group in their origin country. The UNHCR has evidently raised the main reasons for rise in cases of refugees. They are mainly religious violence, wars and tribal violence.¹¹⁰

CONVENTION

The rising 1951 Geneva Convention is the first international law for refugees. It deals with all the legal work for a refugee right from their definition to their protection and their social rights which should be given to them by those countries who have signed the document. The 1951 Convention gave the ss to those victims of World War, mainly the Eastern Europe. Later in 1967 Protocol, the scope of the nonrefugees convention warm not only protection but to the problems of district throughout the world them. The 1951 Convention convention's scopents and the State as well.

Andes and Migrants: The Difference

People are often confused by the two similar terms which are not at all similar but their applications may crash each other's position. So imperative important to know the difference between the two.

Refined that are similar fled from their origin country in fear of persecution and cruelty because of their religion, nationality, race or political opinion or affiliation to them. These people generally elope from their origin country to neighboring countries and seek refuge in those countries. Once these people are given asylum by countries or recognized by the neighboring are termed as Refugees. The recognition is done by the UNHCR by following a Refugee Status Determination (RSD) procedure, which is not a full prThe UNHCR does the recognition ever, the UNHCR may interfere with the country which is not ready asylum to full-proofs. Thus, it can be said that all refugees are asylum that all asylum seekers.

On the other hand, the migrants are displaced people outside the country but not due to any fear. Their main reason for displacement is for seeking better lifestyle, better education or reuniting with t families. The migrants are governed by each country's immigration laws unlike refugees which are governed by the international conventions. Their safe return is a high possibility, unlike the ref2019, just five countries contributed to more than two-thirds of all refugees¹¹¹. These are:

¹¹⁰ USA for UNHCR, what is a Refugee?(30 March 2020) <https://www.unrefugees.org/refugee-facts/what-is-a-refugee/>

¹¹¹The UN Refugee Agency, UNHCR

Syria, about 5.6 million Syrians are refugees and over 6.2 million people are displaced within Syria. At least half of the refugees affected by the Syrian refugee crisis were children.¹¹² Since 2014, Syria has been the root country of origin for refugees and by 2019 end; 6.6 million Syrian refugees were hosted by 126 countries worldwide.

Venezuela, as of 2019, has a refugee number crossing 3.9 million, and it is predicted that Venezuela will be the worst Aseel crisis Venezuela state in 2020.

Afghanistan has the worst refugee population in Asia. As of 2018, there were 2.5 million refugees registered in Afghanistan. Afghanistan has the second largest refugee population in the world.

Amidst deteriorating living conditions and violence in the region, **so second-largest** the worst struck refugee producing state in Africa. South Sudan is also with the third largest refugee population state. The refugees have refugee-producing million marks, and around 63% of this population third-largestest age of 18.

Myanmar, after the violence of 2017, which broke out in Rakhine, the *Rohingyas* started leaving Myanmar and took shelter in Bangladesh. At the time, as many as of 7, 42,000 *Rohingyas* seek asylum in Bangladesh and among these 40% are under the age of 12. OAs4,300 *Rohingyas* travel to Bangladesh and seek asylum every day. *Kutupalongthis 40%camp* in Bangladesh is about to come one of its kind with living population of over 6, 00,000 within 13 km square.

BASIC HUMAN RIGHTS OF REFUGEES

RIGHT TO PROTECTION AGAINST REFOULEMENTA

Refoulement is the forcible return of refugees or asylum seekers back to their origin country where there is immediate fear of being persecuted. When people leave their own community and flee to another country or community, then their biggest threat from the asylum-seeking country is that might be forced back to their origin country where there are chances of forms auction. Hence their security, integrity and their lives are in danger. The international community has a principle for non-refoulement which has derived its existence from the keywords “common humanity” and “international community”.¹¹³

¹¹²2020, “Syrian Refugee Crisis”, World Vision

¹¹³The Refugee Convention 1951, art.33(1) UNHCR, *Basic Legal Documents on Refugees* (1999), 8-37; United Nations Declaration on Territorial Asylum, Art 3; The Asian- African Legal Consultative Committee, Bangkok Principles, art. VIII; Unconventional 1969, art II (3); American Convention on Human Rights Convention, 1969, Article 22(8).

Thus, returning refugees to their homeland where their safety to life is endangered is against Human Rights and also has a legal position. Such protection of refugees has a legal status in the laws “relating to the prohibition of cure and cruel or inhuman treatment”¹¹⁴. It is the duty of the state parties not to expose the individuals who have returned by means of extradition, refoulement Then to such conditions where their dignity of a human is degraded or ill-treated according to the ICCPR¹¹⁵, it is also prohibited by International Human Rights Law.¹¹⁶ Also, in *Cruz Varas Case*, it was quoted as “the act of handing, International Human Rights Law also prohibits it are in itself constitutes a violation of the obligation of protection of individuals against torturers, hence the state’s refoulement towards the refugees is violating such same obligation and is to be held liable”.

RIGHT T. HENCEM

“Asylum is the protection which a State grants on its territory or in some other place under the control of certain of its organs, to a person who comes to seek it”. The countries following Non-refoulement principle needs to give asylum seekers a shelter for their survival along with their safety and health. The asylum should be providing need them not just for their integrity, security and right and protecting other human rights as well. This privilege to shelter can be deliberated in scope of the U.N., Sanction as an overall also guideline of universal law and thought of humankind.

Thus, an individual has at the right to move out of his country to a universal law guide lined as a human right and there also he has a right to shelter and protection from persecution through human right instrument.¹¹⁷ It is important to, note that the countries providing asylum to refugees eloping from other countries is not considered as an unfriendly act. Earlier, the right to asylum was a right assigned to the state ad not to any individual are, but over this right has been considered as a right of an individual because if a state denies asylum it would reflect the denial of the existence of any international or granting it. Though the right to asylum is a right granted to will individual, the states have kept the frustration of denial to asylum high over the years. It may be noted that the underlying principle for the UNHCR is that “In cases of large-scale influx, persons seeking asylum should always

¹¹⁴The Universal Declaration of Human Rights, Art 5; UNHCR, *Basic Legal documents*, pp.43 47; *Convention Against Torture*, Art. 2 and 6, Art 7of the ICCPR (1966) HRC General comment No. 20, para 9
HRC General paras 14 and 15

¹¹⁵*Cruz Varas Case*, note 12. Series Aino. 161.Para 91

¹¹⁶Article 1of the Resolution adopted by the Institute of International Law in Sept.1950, *American Journal of International Law*, vol. 50, Supplement (1951), p15

¹¹⁷The Universal Declaration of Human Right1948, art.14(1), (G.A. Resolution 217(III)); Art. XXVII, American Declaration, Art. 22(7), American Convention on Human Rights, *ILM*, vol. 9(1970) p 673, Vienna Declaration, part I (1993), para 23

receive at least temporary refuge”¹¹⁸. The UNHCR (in 1986) took stand as “Refugees and asylum seekers who are the concern of office and should not be the victims of measures taken by Governments against illegal immigration or threats to their national security, however justifiable these may be in themselves”¹¹⁹

It somewhat there sardonic, that the countries or players leading the world and intervening with humanitarian laws and introducing human rights are the ones who on the name of security and safety of their state put barriers to such refugees, deny asylum and exercise extradition and refoulement.

Right to equality and Non-Discrimination

Article 2 of the ICCPR states that, “Each State Party to the present Covenant Equality makes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or color status”¹²⁰. Thus, a displaced person another opinion treated with no discrimination by their refuge. The refugees could procure these moral imperatives in consideration of protection and respect of Fundamental Human Rights, General International law along with gaining elementary considerations of humanity from the international, ands. It is a general rule that the refugees ought to have dignity and rights as that of a national¹²¹ in the asylum state as there may not be adequate laws in every state for the nation in of the rights of the refugees and maintaining their duty as there may be bitterness among the nationals in asylum states to maintained refugee’s existence on the territory. In addition, common grounds related to situations of refugees such as “race, religion, also social origin and lack of refugees' situations discriminated”.¹²²

Right to life and personal security:

The privilege to life is a non-derogable widespread right and displaced people are shield personal objective hardship of life. Refugees are a group, of individuals who have no identity and lack social security fundamental basic human rights in all stages of their life, once when they are being taken out,

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¹¹⁸Michell Moussalli, *Who is a Refugee? Refugee Magazine*, (September, 1982), p.42.

¹¹⁹Opening statement by the High Commissioner for Refugees at the Thirty-Seventh Session of the Executive Committee of the High Commissioner's Program, 6 October 1986

¹²⁰ICCPR, 1976, Art 2(1), Part 2,

¹²¹ICCPR, Art. 2(1) *ILM.* vol. 6(1967), p. 3687; ICESCR, Art. 2(2), *ILM.*, vol.9 (1970), p.360, U.N. Charter, Arts. 1(3), 13(1)(b), 55(c) and 76(i)(c); Universal Declaration of Human Rights, Art. 2; European Convention, Art. 14 213 *UNTS* 221; Art. 1 and 24; African Charter, Art. 12, 13, 18(3)-*ILM.*, vol. 21(1982), p. 58.

¹²² UNHCR, international *Legal Standards*, note 12 at p.18.

secondly when they remain in asylum for their life with no human dignity and thirdly, when they are sent back to their native countries. Refugees are the most threatened species of human on this earth. They require identification, status, class, nationality, social security, human rights and health. They are easily prone to tortures, physical and sexual assault, genocide, extra-judicial executions, killings, forcible disappearances, landmines, hostility attacks, etc. Such criminal wide spreads are very common in refuge shelters; therefore, there are human rights law guaranteeing right to life¹²³ and states have the supreme duty to prevent such the mass loss, of lives in wars, genocides¹²⁴.

Women have always been the worst victims in refugee camps and it has also been recognized by The Vienna Declaration and Program of Action (1993) that “there is an immediate connection between the gruesome infringement of human rights particularly as decimation, and precise assault of ladies (a rape) in war circumstances”¹²⁵. To back the worsening scenario of General physical attacks, Sexual attacks and callous rape of refugee women, states have been urged a plethora of times to acquire a feminist could combat the violence against unsafe women. The failure to protect the refugee women from the violence devastated the right to liberty, integrity and security of persons. Even worse, at some point nonlight to life too.¹²⁶

For a fact, none of the refugees could be unprivileged of their right to liberty except on such grounds and in accordance with such procedures that are establish according to provision of Covenant on Civil and Political Rights clause 2 makes the refugees eligible to claim legal safeguards, who can also challenge their detention. International Covenantal challenging Rights in its clause 1 of the 9th article clearly states to refrain from the of holding refugees in closed camps as it will be treated as ‘detention’. Though, the clause comes with an exception, that holding refugees in close camps is only permissible when it is their safety and in their best interests.

RIGHT OF RETURN

The are guaranteed with this right so that they can return to their home country voluntarily as recognized by the human ton rights law recognizes the right of refugees to return to their origin country voluntarily from another foreign territory refugees'. Resolved by the General Assembly that resolves the issue for Palestine refugees in 1948. Those refugees who urged to head back to their states with

¹²³Universal declaration is of Human Rights, Article 3; ICCPR, Article 6(1), American Declaration, Art. American convention, Art. 4 (1); European Convention, Art. 2 (1); African charter, article 4; ICRC., articles 6(1) and 19

¹²⁴H.R.C. General Comments, No. 86, paras 2,3 and 5

¹²⁵Vienna declaration, 1993, para 28

¹²⁶See generally CRC, Art i28(3), *ILM. ivol.28*(1989), p.1448; ICCPR, Art8(3) and Art 26.

the hope of peaceful living along with their neighbors were supposed to do the needful at the earliest practicable date. Also, the UN neighbor assembly, proposed a compensation for the property to those who the return. It is o the originate, state of refuge and the international community to provide a safe origin state's duty for the individuals looking to execute their right. Since the state of refuge is a temporary status, it is the obligation of the asylum country to protect the human rights of a refugee who lost its the asylum country should be to discriminations and cruelty and once the conditions are favorable back in their country for their survival where their human rights are not viol. Once duty of the refuge favourable and starts for the origin country. This right is more of a problem-solving step rather than making it more difficult for the refugees and their origin states. Thus, the recent advancement in this shows that the voluntary repatriation has been more affective having relations with this field's NHCR and both the and asylum. Also, in Article 5 of the 1969 OAU Convention, the article has laid more stress on the voluntary repatriation along with strengthening relations between them.

OTHER RIGHTS

Refugees are protected by various other rights through various land conditions and human rights treaties. Like, the refugees have a various other right protect refugeesion as that of an individual. According to the ICCPR¹²⁷, “family is considered as the natural and fundamental group unit of society and it is the duty date and the Society to provide protection to the family and the depends of the individual”. Though, the definition of dependents changes from state to state as a result of disprotect of family in different cultures, it still remains a domestic law of protecting the individual’s dependents in every state. Other due toke right a to education, right to justice, access to fair employment and their fundamental privileges and freedom are the outcome of various international and regional human rights. Evidently, the 1951 convention, states more specifically about the status of refugees in asylum states is ought its various articles. One¹²⁸, “Refugees are to be managed in distinguish the moveable and immoveable property as for far off nation refugees”. Two¹²⁹,are to be conceded equivalent access to the courts”. Three¹³⁰, “Refugees are to be allowed the same access to wage-earning- blue collar employment as foreign nationals”. Regardless of these conventions, many countries fail to provide the same top the refugees due to their own national laws. The ready example for sucblue-collarcy can be

¹²⁷International Convention Civil and Political Rights (ICCPR), 1966, art 23(1)

¹²⁸*Ibid.* Art 13

¹²⁹*Ibid.* Art 16

¹³⁰*Ibid.* Art 17

Lebanon and cannot Palestinians as refugees can't rehearse their callings because enrollment, for example, law, medication building, and from enlisting property. The labor bar and the property laws make it unable for the refugees to gain their status in Lebanon as scribed by the 1951 Conventions¹³¹.

REFUGEES IN THE PANDEMIC: VIOLATIONS OF RIGHTS

Refugees are labour of the most vulnerable groups of people who are getting affected in the time of this pandemic. The journey is described by the name itself as migration can be seen as a life span process. The global pandemic COVID 19 adversely affects their lives and forces them the new challenges.

COVID -THE NAME ITSELF DESCRIBES THE JOURNEY STAGES

First, the country from where there belongs that means the country of origin, Refugees may experience a worst condition in which their violations and persecution of their rights with intensified discrimination and 'emergency' pandemic measures which curbs the dency. Another problem regarding pandemic i.e., restriction the ones on the freedom of movement, which may make impossible for refugees to leave in the search of asylum.

Secondly, borders are also being restrict that curb pandemic. There are total shutdown & travel restrictions, which creates hurdle for refugees to travel aboard to apply for refugee status, or to be resettled in search of unitary. Similarly, if refugees settled around the border, then fundamental principle of non-refoulement hurdle risk of persecution or any other serious issues, which ca be late by the resettlement of refugees near borders. Even states have right to enforce border the regulatory non-refoulment, the country, where there are refugees' asylum, they may the resettlement of refugees near borders can viola termination procedure; documents; amenities; livelihood and / stimulus Pisa distress of forced returns.

CHALLENGES REGARDING PROTECTION OF REFUGEES IN RESPECT TO PANDEMIC COVID-19

¹³¹Human Rights Watch, World Report (Lebanon), (2014)

The protection of refugees is a concerned matter for international community and it can be achieved by the combination the of international cooperation as well as international actions. The authorities should concern that the resources should, be availed by the refugees, in the particular situation of this panda is of utmost importance that international communities promote consciousness to include refugees in responses to the pandemic and to safeguard that actions are planned and executed in accordance with the most protective standard possible.¹³²

Violation of rights of Refugees under darkness of COVID-19

On April 23, Bangladesh's coast watches passed on a reasonable message expressing, "Not a single Rohingya will be permitted to enter [Bangladesh]." An explanation copying the administration's position featured in an ongoing meeting by Foreign Minister Abdul Menon. Vigorous words conveying a feeling of history repeat wasting itself describing back to the 1970, when Vietnamese vessel individuals looked for asylum in neighboring countries, however were plentifully denied section.¹³³ Another occurrence red in Malaysia when, the country precluded the neighboring from claiming pontoon conveying 200 Rohingya outcasts.

An exact same this ameccurred in that per month when Italy shut its ports in regard of its general wellbeing.

There are guidelines given by The General Convention of 1951 which clearly explains governments are gardinge negative help of worldwide pandemic as a reason to disregard global law by efficiently ignoring the origination of non-refoulement- A Fundamental Principle of International Law, prohibits governments from sending refugees and asylum seekers back to non-refoulment where they are or have fear of being persecuted.

CONCLUSION

Refugees are the most vulnerable group of people in the world. The current pandemic has a fear of Corona Virus, has led to their status more exploited. Irrespective of their place, whether in transit, or in refugee camps, their condition is devastating. Imagine, during such crisis, citizens of the countries are not able to meet the ends with all the resources available, a refugee, who has lost its state, identity,

¹³²Liliana Iyrya jubilit, *Challenges to refugee protection in the time of COVID-19*, UNSW Law, (June 25, 2020) <https://www.kaldorcentre.unsw.edu.au/publication/challenges-refugee-protection-time-covid-19> , last retrieved 8th august 2020

¹³³pierfilippo n. Natta, Covid 19 is no excuse to abandon basic principles protecting refugees and asylums seekers, the diplomat, (4 May, 2020) <https://thediplomat.com/2020/05/covid-19-is-no-excuse-to-abandon-basic-principles-protecting-refugees-and-asylum-seekers/> 1st retrieved 9th August 2020.

home and Fundamental cannot they be provided with the resources they need. Health supplies, medical facilities, hospitals, nursing services, are in high demand. In this emergency, providing such services to the people who are not even citizens of their state is very difficult, as, for the cause of humanity, it is quite exorbitant. The condition of refugees is so pitiful and they are discriminated not in this situation. They aren't able to move with freedom for the search of asylum, as borders are constrained. The condition do not is severely bad and they don't even have the resources to feed themselves. There was total lock down are notch and every state; they aren't fundamental to enjoy their basic rights like food & water. They are restricted to borders and ports.

It is high time, that international communities and first world countries should fundamentally have cognizance to the basic human rights of refugees through and after this pandemic. In situations like these, the role and importance of the work of the international communities play a vital role. The First World countries should come forward and aid international communities' works with resources in excess apart from the regular aid provided to them.

Currently, the Government, of each country is a lot on its plate, and it's time for the Private Partners of the UNHCR like the IKEA Foundation, SONY, Vodafone Foundation, Microsoft, educate a Child and many more to come up with more and more donations as well as volunteers working on coordination between the international communities and governments.

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VIOLATION OF HUMAN RIGHTS DURING COVID-19
- RIGHTS OF MIGRANT LABOURS

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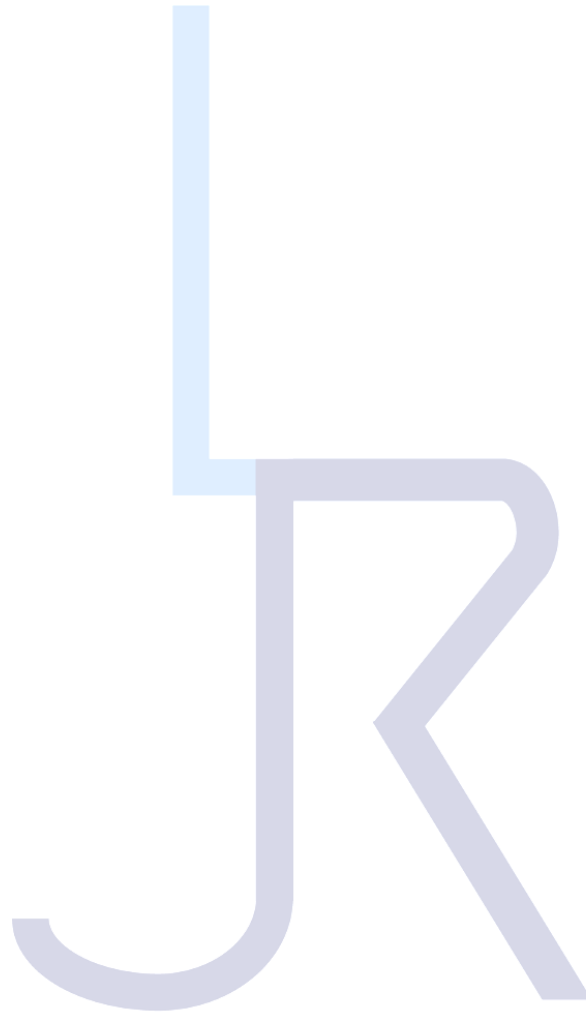
“No work is insignificant. All labour that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.” - DR. Martin Luther King Jr.

ABSTRACT

On 24th March 2020, the Government of India ordered a nationwide lockdown in India starting midnight to stop the Co-reading to the country. Because of the shutdown of factories and workplaces due to lockdown imposed in the countries, millions of migrant labourers had to deal with the loss of income, hunger and uncertainty about their future. Many of them and their families went starving. Because of the loss of did note or wages, they didn't have money to send their family in COVID-19. Migrant labourers who decided to stay back during the COVID-19 faced undesirable treatment from their neighbours who accuse them, of being infected with the coronavirus. Many, of them walked back with no means of transport due to lockdown. The central and state governments took steps to help them by trying to make sure that there are public transport and food available for them. The governments using special trains but still, there are no food and water provisions, they were either not provided or simply dumped at, buy stations due to the fights between the passengers while sharing food. Amid COVID-19 lockdown, more than three hundred deaths were reported with the reasons regarding from distillation subsidies exertions, road and rail accidents, also due to careless and bad attitude did not authorities many didn't get medical treatment timely and 18 migrants died while walking through the railway lines during the night, from the server train accident. Many videos were viral showing the starvation deaths of migrant workers. Many dead and injured due to the lack of concern by the authorities and government towards the labours and daily wagers amid local authorities and government's lockdown.

This study on the rights of migrant labours amid COVID-19. In the present scenario, the most important issue is how to save human rights during COVID-19. significant pandemic time, a major issue is maintaining the fundamental of Migrants' labour. The basic problem of migrant labourers has become very important in developing countries in the world. Migrant labours have faced multiple hardships during this COVID-19.

KEYWORDS : COVID-19, Migrant Labours, Violation of Rights, Rule of Law, Human Rights.



LRJ- ALLYING LAW WITH SOCIETY

INTRODUCTION

Migrant labour had faced multiple hardships during the battle of time because of the shutdown of factories and workplaces due to lockdown imposed nationwide. There are so many mills dealing with workplaces' shut down and uncertainty.

From this nation wind down amid the COVID-19, has certainly dislocated many of migrants by taking away jobs, lack of money and many were forced to walk hundreds of miles to reach back their homes where some were significant during this journey. Some major steps were taken by the Government to take control of this. The Government took some. The Government these steps, there was another challenge faced by the government that was to empower all these workers the government face they can earn a live lie without leaving their native states. The Center and the state government authorities have to deal with the crisis along with the respect of human rights because every life is important.

How COVID-19 affected the lives and workers, how their human rights are being violated and why the government lack in dealing with the situation?

This paper is written to give an insight into the situation of migrant labourers so that the readers can get the answers to these questions. Although some blame the people who are migrating to earn a livelihood, the essential more at fault and it is important to bring up this issue so that we may not fall in the same situation again.

RIGHTS OF MIGRANT, LABOURERS

During this COVID-19 pandemic, human rights violation including cancel ship discrimination arbitration reported from different parts of the Country. The world violations an unprecedented Crisis. The prior were their lives. The United nation has more power to set tools and form of human rights start detention minorities among other all are being affected differently. However, about Rights Commission House recorded over 2582 cases, all formulation of human right where the country was under nation-wide lockdown indicating rampant human rights violation which left millions of migrant's labour to suffer. The Commission has sought an explanation from respective state authorities and mostly in human rights cases relating the hunger and death of migrant labourers complaints ranged from making migrants devoid of social schemes to death on roads where the migrants have no work food shelter and most of the migrants are weak and depressed people of our society, with their families have had towards their native place on foot hence they were dying of hunger the many of killed in accidents. Blaming the other we should know that continually migrants are suffering from starvation and walk journeys without food, water and social distancing.

INDIAN SETTING PRIMARY

The rule of law is one of the basic or fundamental concepts of the legal system. The rule of law means no one can be above the law; No one can be Supreme over the law. Based on this every public authority, government officers have to follow this rule. Even in the constitution, the rule of law is given.

The Center and the state government authorities have to deal with the crisis along with the respect of essential because every life is important. It is very disheartening to know the death and labourers, women, older people, children and even pregnant woman. But whenever this country has a social-economic crisis, all the time migrants have to survive over or without the human rights to at least live even without dignity

HUMAN RIGHTS AND THE INDIAN CONSTITUTION

India is a welfare country it means well of people's superior law. The Constitution of India is the Supreme document in the country which means all the; laws are governed by this document. It was enforced on the 26th of January 1950.

We are a welfare country so we are this document governs all the law. The preamble of the constitution declared Indian to be a sovereign, socialist, secular, Republic country. India is also one of the original signatory countries of the international covenant. The international covenant set out the parameter in respect of human rights to all the countries with any discrimination.

- (i) Article 14, Equality before the law.¹³⁴
- (ii) Article 15, the for on grounds of religion, race, caste, sex or place of birth.¹³⁵
- (iii) Article 16, equality of opportunity in matte prohibits sent¹³⁶
- (iv) Article 19, on the grounds of principle of free migration are in clause (d) & (e) of Article 19 (1) Of the constitution of India which guarantees that every human being has the right to move and settle all over the Indian territory without any restrictions.¹³⁷

Universal Declaration of human rights (UDHR) 1948 says that human rights derive from the inherent dignity of a person and human being.

¹³⁴ J.N. Pandey, *Constitutional Law of India*, (52nd ed. 2015)

¹³⁵ J.N. Pandey, *Constitutional Law of India*, (52nd ed. 2015)

¹³⁶ J.N. Pandey, *Constitutional Law of India*, (52nd ed. 2015)

¹³⁷ J.N. Pandey, *Constitutional Law of India*, (52nd ed. 2015)

- (v) **Section 2 (1)(d)** of protection of human rights 1993, human rights are those rights which are related to life, liberty and dignity of individual guaranteed by the constitution or international covenant and enforceable by law.

Human rights are universally applicable which means human rights are universal and apply to every human being without any discrimination based on caste, colour, place of birth, religion etc. Human rights are founded in respect of the dignity of the individual man rights are justifiable. They cover legal, fundamental rights and national rights as well as they also enjoy judiciary enforcement. Human rights are not absolute it means they have also for registration and restriction human rights include socioeconomic, civil, political rights which are deemed and serve the individual. also have are essential as well as necessary because in this absence of human rights the physical, social, spiritual is not possible it is irritable because they cannot be taken away by any authority like a right to life, right to air, right to education, right to sleep, right to privacy.

HUMAN RIGHTS AND UN CHARTER 1945

UN charter¹³⁸ first official document in which the UN Charter was drafted and adopted by all the states. India was one of them. UN charter contains the provision for the protection of human rights when states become a member of UN, they are bound to follow the charter to maintain international peace and security for human rights to all person without any discrimination.

Human rights and UN charter are classified into five parts: -

- 1. Civil rights:** These are the related to the right to life and personal Liberty these are also Basic human rights which are necessary for the human being under UN charter they have been given
 - Right to life Article 6
 - Right to again exploitation article 7
 - Right to equality article 14
- 2. Social right:** These are the rights which are given under UN charter: -
 - Article 9 right to security
 - Article 11 right to live with dignity

¹³⁸UNO, Universal Declaration Of Human Rights, Un.Org, (Sep. 19, 2020)
<https://www.un.org/en/universal-declaration-human-rights/>

- Article 12 Right to Liberty
- Article 13 right to education

3. Economic Rights: These are following economic rights which are given under UN charter: -

- Article 5 right to choose a profession
- Article 6 right to work
- Article 7 right to work with dignity
- Article 8 right perform labour union

4. Political Rights: These are the following political rights which are given under human charter:

- Article 19 right to an opinion
- Article 20 right two union
- Article 21 right to Association
- Article 25 right to participate in an election

5. Cultural rights

- Article 50, right to participate in cultural activity
- Article 51 right to take benefit of scientific idea except these about these are some article in UN charter in Vista provision related to human rights has given-
- Article 55, this article laid down universal respect of all the human rights and freedom for all.
- Article 62, the economic and social council may make or initiate studies and reports concerning international economic, social, cultural, educational, health and related matters.
- Article 68 economic and social conceal must be settled in Commission for protection for human rights.

Based on the above information, it is clear that most of the freedom, social, cultural rights proclaimed In UDHR has been incorporated part of Indian constitution. It means that in India, human rights get

fundamental rights status which means these rights are enforceable in India. These rights run in the same in same way. They are not contract but maintain the harmonious contraction and maintain the dignity of individuals.

(A)INTERNATIONAL SETTINGS

Soon after the Independence, India adopted some reforms for the betterment of the labourers in the country because back then a large number of people used to work in unorganized sectors. Migrant workers or the labour to better were in filthy living conditions and fast, many of Labour laws and rights was required as per the International Labour standards.

Since 1922, India has been a permanent member of ILO (International labour organization) and is also among the founder countries of the ILO governing body. India has adopted six from the eight fundamentals of the International ILO conventions, these are: -

1. Forced Labour Convention
2. Abolition of Forced Labour Convention
3. Equal Remuneration Convention
4. Discrimination (Employment Occupation) Convent Organization Age Convention
5. Worst forms of Child Labour Convention¹³⁹

Recently, India has adopted a framework for providing a better work culture and workspace for the labourers including sustainable livelihood, water, sanitation and affordable health facilities in rural areas, access to quality of life, also equal opportunities and enabling environment for women, children and young people living in the backward areas under The Decent Work Country Programme (DWCP) for India (2018-22), formulated at the national level through a process of tripartite consultation for ILO's mentorship to its constituents in India. By 2022, Environmental and natural resource management (NRM) will be strengthened to provide more access to clean energy and proactiveness to climate change and disaster risks. Children in rural areas will be provided more access to essential nutrition services like food baskets.

LRJ- ALLYING LAW WITH SOCIETY

CONDITION OF MIGRANT LABOURERS

¹³⁹Chitranjali Negi, Human Rights Violations of Migrants Workers in India During COVID-19 Pandemic (June 17, 2020). Available at SSRN: <https://ssrn.com/abstract=3629773> or <http://dx.doi.org/10.2139/ssrn.3629773>

As per the observed value, India has more than 40 million Migrant Labourers and had different types of challenges faced in this pandemic. Due to this protective measure are taken by the government of India, many daily wagers and migrant labourers who are often earning to survive lost their livelihood. As a result of this Pandemic time, people dying of starvation, India's ration of find no employment for the wagers and labourers.

(A) PRE COVID-19

The improperly or primarily comprise or in India is largely comprised of migrant workers. Even though they are the majority section of labourers, the government has always failed to give them the right treatment in any form of social or legal justice. Even before the COVID-19 was announced a pandemic and even before the lockdown was imposed, the migrant labourers were exposed to exploitation, harassment, sexual abuse and also were forced to work in low-end, low-value. However, conditions. But still, they were far away from the much unhealthy treatment of authorities that they faced during the lockdown, and they were paid less than what they deserve, they had work to do and some earning which was the source of their survival. They used to live in filthy condition in small rooms but they had hope that after completing the work for the day they will get some food to eat for them and also, for their families.

Before all India Lockdown, the conditions of workers were not so different not dying on roads with starvation. They were would end access to different government subsidies but when their jobs were taken away, they workers hurt because reason for their living was also taken away. Crossing the state boundaries increases the distance between the "source" and "destination" eventually increasing the hardships of migrant workers. Also, they can become easy victims of identity politics and provincialism.

(B) POST COVID-19

As the lockdown covers the world, the rising unemployment of many valuable labourers will be pushed into more precarious situations and lack of protection.

Keeping in mind the situation, the impact of internal migrants in this coming year wires and an in labourers' rising unemployment of exploitation of the remaining workers. Moreover, India has the lowest paying job in fields like construction in the hospitality, textiles and domestic workers. In this 90% workplace comprises the informal or unorganized sectors of the economy as well as the migrants, are a big part of this. Due India's 40,000,000 significant labourers are facing the major burden of the

situation. As per the fact, there will be an increased risk of enslavement and decreased supply of workers who are at high risk of exploitation.

Not to forget and emphasising on the disruption of education due to COVID-19. There will be many children, woman and men forced to go out and work for the survival of their families and suffer physical, emotional and even sexual violence in many cases. Furthermore, not only the loss of work of migrants is at high risk but also the women, victims of social discrimination. The survival of the migrant labourers are unending. Thousands have to travel miles of distance on foot to escape things of high standard cities without food and immediate matters of concern primary is population are food, shelter, basic healthcare, loss of jobs, the survival of family, anxiety and fear etc. There are many of them facing rude behaviour from police authorities and around 22 died on their journey back home.

The announcement of nationwide Lockdown in India did not refer to any transportation service this financial help to the Migrants. Many issues of are labour workers in different states, the government took the initiative to send them home by running over 4000 Shramik special trains for the 40 lakhs migrant labourers. So however, the concept of social distancing was destroyed, they had labour workers' issues in the delays of special trains, shortage of food and water. The first special train to take migrants to their home started on 9th May 2020 and the total lockdown was implemented across the country on 23rd March 2020; the yearly showed that the government failed to incorporate strategies to mitigate the impact of COVID-19 and Lockdown¹⁴⁰. They took these steps when more than one was over, of a lot of problems with this pandemic and the impact of this on the lives of labourers.

Summing up to the impact of Covid-19, mainly the labourers are suffering the most. The facts and estimation discussed above are just an observed value according to media and other sources.

STEPS TAKEN BY GOVERNMENT

Just a few days after the lockdown, as the spread of the pandemic started rising, especially those people who live away from their homes were in dilemma whether to stay at their places of work or to leave for their home cities or villages. It turned out that later on in the lockdown, when the workplaces, construction sites and the factories were shut from weeks, the workers and the daily wagers who left their homes to earn some living ran out of ration and even money because there was no work no pay situation also they had to pay rents to the landlords and now they were left with only one option that was to get back to their hometowns or villages in the thought that at least they might survive somehow

¹⁴⁰RENU YADAV, *Impact of COVID-19 On Indian Migrant Workers*, CRITICALEDGES.COM (JULY 12, 2020) <https://criticaledges.com/2020/07/12/covid-19-on-indian-migrant-workers/>

or get some work, especially in the fields as it was the season of However, vesting wheat. But this created nothing but chaos because there was no transportation back home amid lockdown which resulted in people walking hundreds of kilometers and even dying in the journey with starvation, in accidents or by the pandemic due to lack of medical facilities during the journey. It was then where the intervention of The Government was much needed and is significant.

Now talking about some major steps which were taken by the Government to take control of this unhealthy situation of the migrant workers are as follows:

1. On 29th March¹⁴¹, the Government issued guidelines mentioning that the landlords should not ask for rents during the lockdown and the employers should also pay the wages without deduction and also asked the state governments to set up relief camps for migrant workers returning to their native states. Though the direction regarding the wages was taken back when the lockdown extended.
2. On 16th May¹⁴², the National Migrant Information System (NMIS) was announced by the Government. It is an online database of migrant workers in different locations including their phone numbers and other data, it was created by National Disaster Management Authority (NDMA) to make easy the distribution of rations and other supplies.
3. Food camps run by the government and NGOs provided food to around 75 lakhs people across the country till the 5th of April¹⁴³. 37,978 relief camps and 26,225 food camps had been set up as of 12th April¹⁴⁴.
4. The government arranged transport facilities for migrant workers to travel back home. Buses and Shramik special trains were made available exclusively for a labourers. Approximately 91 lakhs people travelled using these facilities to reach back to their hometowns. Measures of social distancing were also enforced in vehicles. 85% of the fares were borne by The Central Government and the rest 15% per cent was on the State Governments.

¹⁴¹ Vibhor Gupta, Know Your Tenancy Rights in The Time Of Force Majeure (Covid-19), MONDAQ.COM (22 June 2020), <https://www.mondaq.com/india/litigation-contracts-and-force-majeure/956234/know-your-tenancy-rights-in-the-time-of-force-majeure-covid-19>

¹⁴² Himanshu Shukla, National Migrant Information System (NMIS), EDRISTI.IN (May 17, 2020), <https://www.edristi.in/national-migrant-information-system-nmis/>

¹⁴³ THE ECONOMIC TIMES, 75 LAKH PEOPLE PROVIDED FOOD AT SPECIAL CAMPS SET UP ACROSS COUNTRY: MHA, ECONOMICTIMES.INDIATIMES.COM <https://economictimes.indiatimes.com/news/politics-and-nation/75-lakh-people-provided-food-at-special-camps-set-up-across-country-mha/articleshow/74996465.cms> (Last Updated: Apr 05, 2020, 08:12 PM IST)

¹⁴⁴ Express News Service, COVID-19 situation: Nearly 38,000 relief camps set up for migrant labourer, Govt to SC, INDIANEXPRESS.COM (April 27, 2020), <https://indianexpress.com/article/india/covid-19-situation-nearly-38000-relief-camps-set-up-for-migrant-labourers-govt-to-sc-6380652/>

5. Even after all these steps, there was another challenge faced by the government that was to empower all these workers so that they can earn a livelihood for their necessities without leaving their native states.

To cope up with this, the government started making reforms and announced schemes which can directly be accessible by the people and migrant workers. Garib Kalyan Rojgar Abhiyan was put at work, 25 work areas have been identified for employment in villages, for development of various works and provide jobs to the daily wagers, people in rural areas and migrant workers who returned to home amid lockdown¹⁴⁵. Also, NREGA was given more attention so that more people can get jobs under the already prevailing to 75 Lakh Crores was also announced under PM Garib Kalyan Yojana along with the Aatma Nirbhar Bharat campaign.

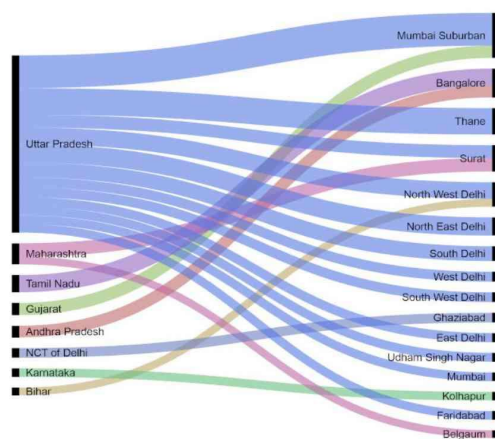
According to a survey and 2019 which measured the policies of 7 most popular migration destinations in the country, these seven states have the most equitable policies for residents and the migrants from different states.

It can be observed that the migrants coming for work to different states are treated unlike the residents by the respective state governments.

The picture, shows top 20 interstate migration corridors in India as of 2011 which might be more widened till date. It can be estimated that migrating to a different state for livelihood is something that is done very intensively in develop into earn like India back of exclusive and sustainable growth in our country.

Thus, there should be some extraordinary policies for tackling the issue of unemployment in semi-urban and do not areas so that people don't have to migrate to urban or metropolitan cities for work or there should be equitable policies for both the residents and the migrants in every state and even the central government should enforce the state government to follow such policies.

Top 20 Interstate Migration Corridors In India (2011)



LRJ- ALLYING LAW WITH SOCIETY

¹⁴⁵ ANI, PM Modi To Launch Job Scheme For Migrant Workers In UP Today, NDTV.COM, (Updated: June 26, 2020) <https://www.ndtv.com/india-news/pm-modi-to-launch-atma-nirbhar-uttar-pradesh-rojgar-abhiyan-today-2252454>

LACK OF EFFICIENCY AMANYREATMENT

There were a lot of steps taken by the government to deal with the situation caused by the many but instead of helping the migrants, made it worse for them to get out of it. Threading of efficient administration was the main cause of schemes and packages not reaching the final consumer. To ensure the social security and welfare of the workers in the unorganized sector, the government of India launched the Unorganized Workers' Social Security Act, 2008. To enjoy tats of the same the workers needed to get themselves registered by which the same order we, the unique identification number (UIN). The whole process is time-consuming and during the pandemic, it is a more complex task, as the result, the system failed to provide an instant benefit to the migrant work; thusry much a necessity during this period.

There are many other schemes as well which were announced with the sole objective of providing benefits to the low-income section of the society thHowever,abourers and wagers. But due to loopholes in the system, only a minor part of the population has access to them. One such scheme is Rastriya Swasthya Bima Yojana which works intending to provide cashless insurance to people belmostlypoverty line. This scheme was also not largely accessible due to lack of awareness and government failures. A lot is being announced and done on paper but it is harsh that the ground real Moreover, was not completely different.

And this wasn't enough. During this lockdown, police mostly targeted the daily wagers, workers who provided daily essential products door to door. When the rule of law is to protect the interest of individuals then how viable authority ill-treated and assaulted the migrants asking for help. They individuals have with their dignity and rights. Police authorities have no right to take away the rights of any individual. We all have seen videos getting viral on the internet and social media how people are suffering and there is no action taken against them.

The International labour organization convention law was violated by some of the states. The convention of hours of some of the states violated the International labour organization convention Laws.

Saving the rights of migrant workers or workers from the unorganized sector is a critical issue for a country like India which has a large population but lacks resources for fulfilling the needs of every individual. Labourers in agriculture, road construction, brick kilns, the beedi to fulfil), the individual's needs ever, sugar factories, sugar cane cutters, transporters, sugarcane harvesting seasonal migrant workers are not even able to have two full meals during the lockdown because of no wages being paid

and the works are paused. Also, they have been exploited throughout their life be it mentally, physically or even sexually and in fact in terms of low wages as well.

The respect and dignity, labourers need to be given back to them as per the ILO conventions. In rural areas, uniform standards for labourers should be implemented in the unorganized work sector. The government can set up a separate dedicated unit which looks out exclusively for the rights and well-being of the migrant workers, small sector labourers or the unorganized sector workers, which can regulate and protect the rights of the migrant workers significant the country.

During the Lockdown, many major steps were taken by the Government for the betterment of the Migrant labourers but even after that the exploitation and ill-treatment go on. From the last few decades, it has been seen that the Government took here are corrupt very level be it, workers, officers, ministers, MPs or MLAs the list goes on but during this lockdown when the utmost good faith was required, the system still shows its lack of genuineness. The government may have taken better steps but the people under them the authorities, the government servants who were responsible to drive those allowances to the actual beneficiary, were not taking the pains of working selflessly. The rights of the labourers and the migrant workers need to be given back to them. The government should come forward and coldest implementation of welfare schemes must be done and the ground reality of the schemes and Yojanas should also be given concern not only the announcement.

End Note

On one hand, the COVID-19 the outburst has brought everyone lives to a halt and the entire world faced a dilemma like never before. On the other hand, our frontline workers are staking their everything in order to take care of society during the COVID-19 Pandemic. From Police Offices to medical staff, we require all of them to acknowledge how much we admire their efforts and want to express our gratitude through this platform.

The centre of attention of the special edition of Volume 1 Issue 1 of Law Research Journal and the articles within are revolved around Nation's Corona warriors' for their distinguished service in the battle against the coronavirus pandemic. When we are safe at our dwellings, our frontline workers are going the extra mile to ensure the health and protection of all. Their heroic efforts and selfless courage shall never be forgotten. Therefore we tried to make a small attempt to compensate them by giving a tribute to all the workers for their services round the clock.

THANKYOU

Team Legality Viability