

LEGALFOXES LAW TIMES

THE COVID PANDEMIC- THE SLAYER OF HUMAN RIGHTS

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INTRODUCTION:

“The world has come to a standstill wherein saving the human lives is itself a herculean task, and protecting the human rights is of course at the back of the queue”. This might instigate shockwaves in the minds of the human rights activists, but the actual reality is that the Countries around the world are placing their preference over fighting the pandemic rather protecting the fundamental rights. The battered voices of the victims who are suffering from the violations of their rights are suppressed by the squealing voice of the world which is rattling about the difficult situation it is in. Undoubtedly, fighting the pandemic demands utmost concentration, but that doesn’t mean that the other duties of the State might be ignored as well. While this pandemic is plundering the lives of innocent victims, the ignorance by the States is plundering the human rights offered to various citizens. This paper focuses on major evils that were conceived amid this pandemic which has majorly caused the violation of various human rights.

THE OUT-AND-OUT VIOLATION:

The breaking out of the epidemic and the subsequent lockdown has resulted in a severe blow upon a consortium of human rights and fundamental rights of the vulnerable sections of the society. The foremost violation which demands immediate attention is the plight of the migrant workers the country is witnessing. With no shelter, food and other basic amenities their rights have been disastrously violated in its totality. The next cumbersome violation is directed by the police, wherein a wide range of custodial violations are carried out under the guise of preventing the spread of deadly virus. The lockdown has also toiled the rights of the women, since the evil of domestic violence have been increased twofold in this months of shutdown. Even the persons with disabilities and other vulnerable sections of the society are not spared with and are heavily hit with the anxiety of getting sufficient resources for their survival. While all the aforesaid violations pertain to the right to life and other incidental liberties, the human rights involving the facet of economy has also been violated across the country.

THE PLIGHT OF THE MIGRANT WORKERS:

Whilst deliberating upon the violations and the subsequent sufferings, it is of paramount importance to highlight the irreconcilable circumstances the migrant workers are living in. The country is estimated to have around 40 million migrant workers, but the fact that almost half of the said population is stranded in roads without any food and other basic requirements right from the announcement of the lockdown is imbuing shame more than shock. The poor planning of the government has left the migrant workers in roads and in extreme circumstances has made them walk hundreds of kilometres in barefoot to reach their hometown. While the Constitution of the country is boasting upon offering the right to life to the citizens, the same Country has been a spectator, when 16 migrant workers who were resting upon the railway track were run over by a goods train near Aurangabad in the second week of May. Some may raise contentions as to why the workers had to sleep in the tracks and lose their lives, but the reason for the same was later identified as they were extremely exhausted after a 45 km walk. The plight of the migrant workers didn't end there and the very next week 24 migrant workers were killed due to a crash between two Lorries in Uttar Pradesh. Reports reveal a dreadful statistics that around 198 migrant workers were killed during this period of lockdown owing to various road and rail accidents. All they needed was to move to their hometowns, which is nothing but their fundamental freedom to move throughout the territory of India. Though the Government was imposing a reasonable restriction on the right to movement, but the same must have been done after taking reasonable measures to transport the migrant workers to the destined places.

THE CUSTODIAL CRUELTY:

"For these people, state machinery has become a larger threat than the COVID-19 pandemic."¹ The next mammoth violation is happening under the guise of protecting the societal order, wherein the machinery of the State is overstepping on its power and mistreating the civilians. Inflicting too much of violence is on the face throwing light on the saying, "Why break the nut with a hammer while a nutcracker is sufficient to do the same". Tens of thousands of cases have been filed throughout the country in one day, which is supplemented by a large number of vehicular confiscations. The same proves sufficient in maintaining the public order, but at certain instances the state authorities are inflicting pain upon the civilians. While the same cannot be even justified when done to the citizens who are violating the order of ban, the pain infliction upon the citizens who were moving out to buy the essential supplies is an outright violation upon the fundamental rights. In the initial phase of the lockdown around March last week, a 32-year-old man was allegedly beaten to death by the police when he was stepping out of his home for buying milk. More recently, the Southern India witnessed a ravishing incident where a father and son were beaten to death in the police custody for a sole of reason of them opening their shop beyond the curfew hours. The arrest was made on June 19, and the next day the father and son duo were

¹ Nazia Erum, *Battle Against Covid-19 Must Not Leave Behind The Poor And Marginalised Communities In India*, AMNESTY INTERNATIONAL INDIA (June. 25, 2020, 09.03 AM) amnesty.org.in › News Updates

admitted in the hospital with severe wounds wherein it was found out that the father's dhoti and the son's pant were fully soaked with blood. After two days of agony the son passed away, and his father passed away the very next day. Article 21 being the heart of the Constitution has been violated heartlessly by this inhuman activity of the state authority. A torture or cruelty being in any form which is inhuman or degrading treatment would ultimately violate the human dignity which yet again forms a part of right to life, therefore this would be prohibited by Article 21 since there was no procedure established by law which recognised such inhuman practice and also this act fails out rightly the test of reasonableness. It also on the face throws light upon the act of arbitrariness exercised by the state machinery which plainly means it is violative of Articles 14 and 21 and therefore unconstitutional.

THE DISABLED COMMUNITY'S DISTRESS:

More than the deadly virus, the guidelines issued by the healthcare sector i.e. the practice of social distancing have stuck a hot iron rod upon the people with disabilities. The physically challenged community finds it more difficult to carry out even the most basic chores without any external help. Since they are not supported by the domestic help owing to the lockdown, passing of each day have been a greater struggle for them. Unlike other violations, the violation they are subjected to is varying to a greater extent depending upon their disability. Whilst a visually impaired person needs someone or at least some wall to hold upon for his movement, the same is not safe in these times, when human touch is aggravating the spread of the virus and other things offering the external support is doubted upon being tainted with the virus. Wherein a quadriplegic person supported by the wheel chair who could move freely is suffering in another facet that, it is impossible for him to carry out his daily chores without any external help, which again is restricted by the present situation. More than the essence of moving, the denial of access to the essential supplies and other medical requirements are the major factors which are tormenting the victims to a greater extent. A 40-year-old disabled man who underwent a hip surgery in the month of March, started bleeding profusely from the wounds in the first week of April, but to add up to his agony he could not reach to any ambulance owing to the lockdown and even if he had reached, there was no sufficient financial resources for him to reach the Hospital. On the other hand, the disabled vulnerable community leading their life in the care institutions have been stranded on the roads, when the care institutions are shut down due to the fear of the virus spread. The fact that the disabled persons are toughly grinding over performing the very basic necessities such as cooking, cleaning and bathing is importunately ringing an alarm as to attract the State's immediate actions.

THE MISERY OF WOMEN:

While the phenomenon of domestic violence has been a customary practice, yet it has gained new facet with outbreak of the pandemic. When the walls of the most household are witnessing the gruesome practise of domestic violence, the world is not paying heed to the tears of the victims. The most common identified form of domestic violence in this period of lockdown is identified to be sexual, physical and economic abuse. The factors leading to the rapid increase in the cases of

domestic violence in these times of pandemic are most commonly stress, the disruption of social and protective networks, and decreased access to services.² The most grieving reality is that, while even the women are suffering from all the factors as equally as men, yet they are subjected to violence and abuse by the men. The attitude of men that the women are the medium to express their psychopathic traits and grievances is the foremost factor which is hindering the progress of the society towards the direction of violence-free society. When the news of lockdown were around the corner, a 25 year old woman went to her maternal home fearing that her spouse would abuse her mentally and physically during the lockdown. When she was expecting to be relieved from the violence of her husband, she didn't imagine that the evil practice of domestic violence would reach out to her by means of her brother. The reason for the same was stated that her brother was not financially stable to support the whole family and she was thought to be a burden on his head to take care of, which ultimately lead him use force on her. When the victim reached to the helpline, she expressed her hesitance to report to the police as she feared that police would also beat her up³. While the enforcement machinery is concentrating upon the pandemic, the victims are hitting a rock bottom due to their exposure towards domestic violence at frequent intervals. Despite many international instruments such as Beijing Conference and its 'Platform of Action' Appointing of Special Rapporteur on violence against women; Universal Declaration of Human rights (UDHR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Declaration on elimination of violence against Women are incessantly working on to curb the menace of violence against women, yet countries like India cannot effectively implement any mechanism to destroy this evil.

THE ANNIHILATION OF ECONOMIC RIGHTS:

Whilst the aforesaid violations are directly affecting the right to life and other incidental rights, the factum of unemployment which has bloomed right from the inception of the lockdown has wiped out the economic rights of the individuals, which yet again impacts the right to life of the victims. Since the announcement of the lockdown, 40 million people have lost their jobs and these people majorly form part of the unorganised sector. To the least, the unemployed individuals from the urban sectors try to find access to the food resources by staying in relief camps or some voluntary organisations, but the unemployed community from the rural side is extremely affected as it is impossible for them to gain access to the needed resources. In addition to that hundreds of millions of the citizens are affected by the Travel restrictions and the quarantine measures wherein the factories are identified with shortage of labour and resources, which is ultimately threatening the

² World Health Organisation COVID-19 and violence against women ,*What the health sector/system can do-* (June. 03, 2020, 18.30 PM) <https://www.who.int/reproductivehealth/publications/emergencies/COVID-19-VAW-full-text.pdf>

³ Shemin Joy,*Coronavirus Crisis: No lockdown for domestic violence*, DECCAN HERALD (June. 04, 2020, 17.15 PM) <https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>

supply to various industries such as technology, automotive, consumer goods, pharmaceutical and other industries. Across all, the most common suffering the victims collectively face is that the non-affordance of bare essentials as to food and other medical supplies. The emerging picture is disturbing and underlines the need for a large injection of public spending and transfers, both in cash as well as in-kind, to address this humanitarian crisis and as we go into recovery mode⁴. It is undisputed fact that the economy of the Country was severely hit on by the pandemic, but the State is yet again having a duty as to protecting the citizens both economically and socially. With the initiation of the '**Pradhan Mantri Berojgari Bhatta Yojana**' scheme which is yet to be implemented by the Government, some belief is instigated into the minds of the unemployed sector, but the application of the same between 20 and 35 years of age is a disheartening factor for the minds of victims who lost their jobs in these tough times who are above the age of 35.

CONCLUSION:

A diminutive virus has shut down the whole world and has been the destroying factor of millions of lives. But the biggest threat which is frightening the world now is that, millions of people from the vulnerable community are losing lives due to hunger, unemployment and poverty. Though the Government is striving hard to save the lives of the affected victims, yet it has proved itself inefficient in protecting the human rights of its civilians. The prime essence of concentration should be diverted towards providing the essential supplies as to food and medical reserves to the citizens. In these tough times, even fellow human beings cannot take part in volunteering activities to provide the same and hence it is solely rested upon the hands of the Government. It also leaves us with a question while the Government has invoked the Disaster Management Act to impose the curfew, then has it implemented any measures as to provide the Disaster Fund which is mandated by the Act. There is no satisfying answer as to whether the disbursement of compensation as provided under the Epidemic Diseases Act, 1897 (EDA) on which the Government has heavily relied upon to strengthen the curfew is under contemplation.

"OUR MISSION YOUR SUCCESS"

⁴ Tanisha Mukherjee, Nilanjan Ray and Sudin Bag, *Opinion: Impact of covid-19 on the Indian Economy*, ECONOMIC TIMES (June. 04, 2020, 23.10 PM)

<https://government.economictimes.indiatimes.com/news/economy/opinion-impact-of-covid-19-on-the-indian-economy/75021731>