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COVID-19: A multilateral catastrophe on the society

Uma Elango & Cathriene M. Abraham

ABSTRACT

COVID-19 has had an immense impact in several parts of the world. This paper focuses mainly on the effects of this disaster on the socio-legal issues, notably the level of crimes existing in the world during the quarantine. The initial segment manages to deal with the aspects of COVID-19 and declaring it as a pandemic. Later, the socio-legal aspect of COVID-19. A critical analysis is prepared on the nature of the crime that is prevalent in society, especially during the lockdown period. The crimes that have increased on the contrary during the quarantine are categorized into four heads, namely, Violation of Section 144 of Code of Criminal Procedure, 1973; Domestic Violence; Cybercrimes and finally, Violation of Human Rights. In India, the rule that governs this proper functioning of lockdown is validated under Section 144 of IPC. Domestic violence stands to be an ensuing crime that has increased swiftly. Cybercrime and violence against women have raised during this period. Many digital fraudulent activities befall. Identity theft is another cybercrime that has perpetually been there. But during the lockdown it has increased tremendously. Many bank accounts and social network accounts remain to be hacked during this course. Human rights are the freedom that each person is accessible to. Violation of these human rights could be by a person or by a Government. When one or more of these rights are violated, the affected person approaches the court for the same. Human rights that happen to be discussed in this paper is according to that of the Universal Declaration of Human Rights (UDHR). This is the abstract of the article, and therefore, individually, the topic would be addressed in detail.

WHAT IS COVID-19?

COVID-19 is the name of an infectious disease which is caused by a virus known as 'Coronavirus.' World Health Organisation (Henceforth WHO) on 30 January 2020 declared the outbreak as a Public Health Emergency of International Concern. It was on the 11th of February when WHO announced a name for the novel coronavirus disease: COVID-19. "Coronaviruses (CoV) are a large family of viruses that cause illness ranging from the common cold to more severe diseases. A Novel Coronavirus (nCoV) was identified on 7 January 2020 and was temporarily named '2019-nCoV.' It was subsequently named the 'COVID-19 virus.' Subsequently, the World Health Organisation announced the COVID-19 outbreak as a pandemic on 11 March 2020."¹ This huge ongoing pandemic is a result of an outbreak of an epidemic in a city of China known as Wuhan.

Novel Coronavirus has proven to be colossal destruction as well as a threat to mankind. The disease has intimidated the minds of many people by causing environmental catastrophes which induce enormous damages, and it would certainly take another year or two for the world to recover from this situation. The virus had not only affected environmentally, but also had its hostile effects on political, social, legal, and economic aspects. Thus, the paper would mainly be focusing on these effects and implications of COVID-19 and the solutions to be brought out.

ANALYSIS OF CRIMES DURING LOCKDOWNS

The crime rate remains examined, and the analysis exhibit that several crimes such as theft, murder, culpable homicides not amounting to murder, suicides, abating suicide, dacoity, and many such have decreased due to the lockdown. Since the 11th of March (after COVID-19 had been declared as a pandemic) the only news hitting the news channels is the number of countries being affected by this virus and the number of people succumbing to this disease. One good thing that COVID-19 has brought with it during a tough time like this is that, the crime rates have considerably reduced, though it has not been eliminated, and also the number of road accidents has been reduced, as the majority of the population are busy being in quarantine. As there are a limited number of vehicles on the road, the traffic jams causing air and noise pollution have also been annihilated. The number of murders and unnatural deaths has diminished tremendously as people mostly remain at their homes, and at the same time, if anyone burgles into their house, it would be easy for the Police to get caught of them. Hence, they would not take the risk of getting nabbed. Courts would comparatively see a lesser

¹ According to World Health Organisation (WHO)

number of cases on § 300 (Culpable homicide amounting to Murder), § 307 (Attempt to Murder), § 378 (Theft), § 379 (Punishment for theft), §s 390 (Robbery), and §s 391 and 392 (Dacoity) of the Indian Penal Code, 1860. When these cases have reduced, there are some other offenses on the rise. Those prevalent now would be classified under four offenses namely:

1. Violation of § 144 of CrPC, 1973;
2. Domestic Violence under § 498-A of IPC, 1860, and other allied §s;
3. Cybercrimes;
4. Violation of Human Rights under UDHR during Lockdown.

1) VIOLATION OF § 144 OF CRPC:

As COVID-19 is an air-borne disease, many countries had implemented quarantine. India, in the mid of March (on the eve of 24th), declared lockdown under § 144 of the Code of Criminal Procedure.

Power to issue an order in urgent cases of a nuisance of apprehended danger.

[\(1\)](#) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this § and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by § 134, direct any person to abstain from a certain act or to take certain order concerning the certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray.

§ 144 of CrPC would prevent any person from forming an assembly. This was essential concerning quarantine. People had to maintain distance to prevent Community Spreading. Many people, in many parts of the country, started violating this rule, and many were fined for the same.²

2) DOMESTIC VIOLENCE AGAINST WOMEN:

Domestic violence has been occurring for many years but now during this lockdown it has progressed at a huger number. As of now, people have to stay at home. Due to the lockdown, women and children face such atrocities. The figures are alarming. Since most of the people remain

² § 144 of the Code of Criminal Procedure, 1973

at home, it provokes animosity amongst the members of a family causing fights and domestic violence. Many cases were also filed under § 498-A of IPC and its allied Sections.

Husband or relative of husband of a woman subjecting her to cruelty — Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.³

Presumption as to abetment of suicide by a married woman — When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband.⁴

Domestic violence against women can be classified into four heads:

- i) Dowry Deaths;
- ii) Cybersex Trafficking (predominantly, Sextortion);
- iii) Marital Rapes;
- iv) Rape.

DOWRY DEATHS:

Dowry death is defined under § 304B of the Indian Penal Code, 1860. Any death is portrayed as a dowry death when a woman dies of unusual or abnormal circumstances, and just before her death, she must have been subjected to harassment by her husband or his family. In the case of Smt. Shanti & Anr. Vs. The State of Haryana⁵, honorable Supreme Court rendered a link between §§ 304B and 498-A and held that, cruelty against women at the earliest stage by her husband or his family shall be presumed that they are liable under § 498-A, and on her commission of suicide, they would be charged under § 304B. The cases reported under these two sections had seen an accession during the lockdown. Many women were said to have committed suicides due to the oppression and torture suffered by them at their conjugal homes.

CYBERSEX TRAFFICKING:

Cybersex Trafficking was an immense scam that originated in the Philippines. This scam mainly initiates live streaming of children or women being sexually assaulted or abused. One of the major

³§ 498-A of the Indian Penal Code, 1860

⁴ § 113-A of the Indian Evidence Act, 1872

⁵ 1991 AIR 1226, 1990 SCR Supl. (2) 675

news that happened to run on most of the news channels was that of an Instagram page known as the "Bois Locker Room" group. The creator of this group, an eighteen-year-old 12th Standard used to circulate obscene and lewd pictures of women on their page and used to offhandedly chat about "gang rape." This case manifested the status of misogyny that existed in the Patriarchal Society of India. Subsequently, the boy (creator of the group) was held to be liable under § 292-294 and was arrested under §§ 293, 294, 501, and 503 of IPC, 1860.

MARITAL RAPES:

Marital rape is a nightmare for women who are raped within the limits of their marriage. It is a non-criminalized crime in India, where a husband who commits rape inside the scope of their marriage is not deemed to have committed rape. This means that, in India, men are allowed to have sex with their wives, even if they have not consented to the same. The number of call reports on women helpline had rapidly intensified. Women could not walk out of their marriage because of the circumstances. These wives could not even go to their parental home due to the lockdown. This was one of the crimes that women (especially in the rural part of India, where the implementation of the law is inadequate, or accessible only at an insignificant measure) had to face during the lockdown. Under such a circumstance, the woman can lodge a complaint against her husband under §§ 354, 376, and 377 of IPC, 1860. This was held in the case of Nimeshbhai Bharatbhai Desai vs. The State of Gujarat.⁶

RAPE:

Rape is defined under § 375 of IPC, where a woman is forced to have sex with a person against her consent, or with her consent, where, such consent has been obtained employing force or assault. A well-known case that was reported during this lockdown was that of a woman lawyer who was molested and raped. The man also attempted to kill her and raped her on the verge of a knife. Another case reported was that of a 40-year-old lady was gang-raped inside the premises of a school in Rajasthan. Above all of these, news that jolted the nation was the rape of an 18-year-old girl who was raped by her father, twice, inside their residence. These kinds of news lead us to question the idea of 'humanity in our society. Although the Honorable Supreme Court has been changing these legislations over a while. One such change was made on the rape sections in IPC. This happened after the most renowned Gang-rape case in India, Mukesh & Anr. Vs. The State for NCT of Delhi & Ors.⁷ Also known as 'Nirbhaya Gang-rape case,' where, four of her convicts were hanged on 20th

⁶ [2018 SCC OnLine Guj 732](#)

⁷ [\(2017\) 6 SCC 1](#) : (2017) 2 SCC (Cri) 673] at SCC p. 261

March 2020 at 2:30 AM. The act was discussed in a committee headed by Justice Verma, in the year 2013 recognized as the Verma Committee. After this, the committee strengthened the rules governing rape in India. Nevertheless, these cases would extend, and would not end unless further staunch edicts would be executed.

To bring down these sorts of violence against women, the National Commission for Women (NCW) launched a WhatsApp number- 72177135372 to file a report against the person who had inflicted harm to the woman. These measures would aid women to protect themselves from the above-said kinds of inhuman acts.

3) CYBERCRIMES:

Cybercrime is not in any rulebook or statute. It is not defined in either the Information Technology Act, 2000, or IT Amendment Act, 2008. But according to the general definition, “any illegal behavior directed utilizing electronic operations that target the security of computer systems and the data processed by them is known as a Cybercrime.”⁸ In the case of Smt. Mathri Vs. The State of Punjab,⁹ it was held that “for establishing the offense of criminal trespass it is not enough to merely show that the person entering upon the property of another knew that his act would annoy.” This rule while applying into practice can be applied to ‘Hacking’ also. This implies that part of cybercrime can be constituted under § 441 of IPC, and hence, initiating a suit for the same. Cybercrimes are initially classified into two categories:

- i) Hacking;
- ii) Cracking.

This has been clearly distinguished in the case of Abhinav Gupta vs. The State of Haryana by Justice Harbans Lal “A hacker is a computer expert whose intrinsic curiosity persuades him to break in computers. Hacking is a computer trespass. To make hacking an offense dependent on mens rea. Based on the intention, hackers are divided into two groups:

- (1) Hackers who have no intent to do any criminal activity. They are skilled computer users who penetrate the computer system, with the sole purpose to gain knowledge about computer systems and their actual working,
- (2) Crackers who intend to engage in criminal activity. Crackers maliciously sabotage computers, steal information located on secure computers, and cause disruption to the networks for personal or political motives. Computer break-ins have been on the rise.”¹⁰

⁸ According to the United Nations

⁹ AIR 1964 SC 986:1964 2 Cri LJ 57

¹⁰ Cr. Misc. No. 9245 of 2008, ¶ 9

Some other types of Cybercrimes are:

- i) Phreaking;
- ii) Phishing;
- iii) Vishing;
- iv) Fraud and Forgery.

Online harassment and stalking, and Cyberbullying have shot up very high. Personal information of people is being phished through various social networking sites such as Facebook and Instagram. Amongst these, the most common crime is 'Fraud and Forgery.' The world has seen a sudden spike in the number of Cybercrimes, notably during the extensive spread of COVID-19. The IT capital of India (Bengaluru) has topped the list of cities with the highest number of Cybercrimes. The second Cybercrime capital of India is a city known as Jamtara, in Jharkhand. One of the most celebrated news during this time was that of a twitter user named @bishwesh0604 who had created many UPI IDs that were very similar to that of the ID which initiated transactions to the Prime Minister's Citizen Assistance & Relief in Emergency Situations (known as PM-CARES). Many funds were transferred to this fake account. This is just one of many cases.

4) VIOLATION OF HUMAN RIGHTS UNDER UDHR DURING LOCKDOWN:

"The Universal Declaration of Human Rights (UDHR) is a document of human rights, drafted by representatives with different legal and cultural backgrounds from all regions of the world, proclaimed by the United Nations General Assembly in Paris on 10 December 1948 as a common standard of achievements for all peoples and all nations. It sets out, fundamental human rights to be universally protected,"¹¹ UDHR comprises of Preamble and imbibed 30 Articles in it.

It implies that, these are the basic rights and freedoms that belong to each individual of all nations, irrespective of their race, color, ethnicity, religion, or any other characteristic, which we adopt from birth, and remains with us until our death. The Universal Declaration of Human Rights contains 30 Articles in total and is about the basic rights that all human beings should get. Article 19 of UDHR affirms that, everyone has the right to their own opinions, and be empowered to express them freely. "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."¹² This has been violated at a largescale, especially, the index country, China, wherein, the exact number of affected patients were not revealed. If the aforementioned had been done earlier, the widespread expansion of this pandemic

¹¹ According to the United Nations Human Rights

¹² Article 19 of UDHR

could have been minimized to a greater extent. As complete lockdown had been declared by many countries, people below the poverty line were deprived of the basic right to Food, Health, Clothing, and Shelter under Article 25 of UDHR. The aspect of safe living and the right to adequate medical health also features under Article 25. This means that all individuals are entitled to the access of Medical masks, hand sanitizers, and soaps to keep themselves clean. This right is also violated as people do not have earnings and they are deprived of purchasing or using these medical commodities.

"Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."¹³ This basic right was deprived of a mother in the state of Tamilnadu, India. She was bereaved of a bed in the hospital in the name of inadequate beds in the Government City Hospital, where all the beds were contemplated to be given to COVID-19 positive patients.

According to Article 26 of UDHR, everyone has an equal right to education. It states that primary and elementary education must be available to every child at free of cost. There are many schools and universities, in many parts of the world that conduct classes online. The main idea of the right to attend classes at free or at minimal cost is being disrupted here. These were the instances in which the basic rights awarded by the Constitution and The Universal Declaration of Human Rights had provided them. Although, under such a situation, they were provided the right to seek the order of the court for a remedy. This working of the judiciary is mentioned in the next section.

WORKING OF JUDICIARY DURING COVID 19

What can be done or what should be done to stabilize justice during this lockdown time is the central focus of this section of the paper. Due to the expanse of COVID-19, the court sessions have been dismissed in many parts of the world, though in some places the courts function with restricted timings. Even though these courts function with restricted timings, the important cases are alone handled and most of the cases are not even looked upon. The hearings are taking place only for the crucial matters. Cases are being deferred on to later dates due to this crisis. Any citizen of India cannot be deprived of their Constitutional Right. Not even during the proclamation of any kind of emergencies (be it National, state, or Financial emergency). During these emergencies, fundamental rights can be suspended, but the right to life under Article 21 of the Constitution still seems to be operating. Hence, the courts remaining shut cannot be a fitting solution during this disaster. So what can be done, or what would be the solution to this dilemma? Though Virtual

¹³ Article 25(2) of UDH

Courts cannot be replaced with the usual court proceedings, the only apparent way is, online hearing of cases. Technology possesses immense development, and currently, everything is accessible through a click on our smartphones and laptops. As of now, people cannot move around freely, and hence, the Judicial System has started using their online modes to adhere to justice in the country. The filing of suits can be done digitally by the lawyers of the respective parties to the cases. The hearings can take place through applications such as Skype, Google Meet, or FaceTime, where the injured parties, their lawyers, and the Judge are present. If a notice has to be sent to any of the parties or people related to the case, it can be transmitted digitally. Lawyers can present their arguments online and they can send a digital form of their arguments to the judge online as well through various available applications so that the judge can hear both arguments of both the parties, and then shall give judgment for the same. A digital copy of the judgment can be prepared for the same and can be circulated with the parties to the case. Technology can accommodate to overcome the burdens handled by the courts. All tiers of court in India, from Munsiff Court to High Court, to Supreme Court, cases can be dealt online. International courts seldom handle their cases online. This will lessen the pressure faced by lawyers, Judges, and the common people. When these cases are advanced online, every one of them gets benefitted.

CONCLUSION

It is unsure whether this pandemic would cease soon, or when we would all recover from its consequences. It would take a long period to recover to normalcy, and this process of retrieval would not be simple. This catastrophe has caused a lot of suffering and a tremendous amount of damages in all aspects of operations. From a socio-legal point of view, few concerns expanded while some diminished through the time. There are numerous situations, throughout the world, where human rights were violated. Crimes of various kinds had comparatively lowered. But at the same time, other offenses such as Domestic Violence and Cybercrimes had seen an instantaneous growth in the number of cases being registered. The functioning of the judiciary should advance, and it must progress in such a way that it can accommodate all the sectors of society. We would like to conclude by saying that COVID-19 had caused a lot of variances and happen to cause many more changes in the world, losses and some are unintended gains as well. This paper has focused mainly on 2 topics, analyzing the crimes and its effect on society, and working of the judiciary.