



ज्यादा भीड़ भाड़ वाली जगहों से बचें
एवं मास्क का उपयोग करें !



आपस में हाथ नहीं मिलाएं !
हाथ जोड़कर अभिवादन करें !



दिन में कई बार साबुन और पानी
से हाथों को साफ धोएं।

COVID 19

AMREETA DAS



things in Delhi. Relatives had to tend to patients in the hospitals without any protective equipment. The patients were not served food or water on a timely basis, some were even denied oxygen. Some relatives had to run from pillar to post to locate their patients who kept being transferred from one ward to another.

Protective gears or PPEs are the primary protective shield for those working in close proximity with patients. The politics of procuring PPEs have exposed a nexus of private interests, coupled with incompetence and corruption, which is being further exacerbated by private hospitals charging patients 10 or more times for PPEs used by hospital staff attending to them. Journalists have flagged this ongoing confusion over PPE manufacturing from March onwards. For example on 27 February WHO issues guidelines to stockpile PPE for healthcare workers. The government did not ban the export of PPE raw materials until 19 March triggering a massive shortage in the market. Even though the ban on the export of PPEs was on since the end of January, the scarcity of raw materials created the shortage anyway.

A similar confusion occurred around the procurement of Rapid Antibody Test kits. The Indian Council of Medical Research (ICMR) invited bids for the supply of these kits without specifying that companies should have an import licence. This is why the companies without a licence to import won the bids which means, these companies had to buy the kits from a company which had an import licence. This led to a massive spike in the price of the test kits. This issue was finally resolved after the Supreme Court intervened and the ICMR had to invite bids afresh.

The shortage of PPEs have been driving public hospitals to protests and *dharnas* while there seems to be no shortage of such equipment in private hospitals suggesting foul play. A June report in [Scroll notes](#):

In 2018, an [analysis](#) by the National Pharmaceutical Pricing Authority estimated that the private sector was making profits of up to 1,737% on some consumables billed to patients. For example, a device used in intravenous lines was being bought by hospitals for as little as Rs 5.77 but sold to customers at Rs. 106, a hike of 1,737%.

The same report stated the huge discrepancy in the billing modalities of various private hospitals regarding PPEs. While some families were charged as high as 2.9 lakh for PPEs, the bills lacked transparency about the total number of PPEs used by the hospital staff and whether it conformed to the rational use of PPE policy outlined by the government. In order to address these disparities, the government has to come up with a strict and precise guideline about the total number of PPEs which should be used according to their degree of exposure to the Coronavirus patient. As of now, there is no existing policy to do so.

While the world waits for a vaccine to be developed, developed countries should be responsible for ensuring that there is equitable distribution of vaccines and access to vulnerable, under-developed areas be prioritized. As of now, experts are already worrying about a phenomenon known as '[vaccine nationalism](#)', where countries pre-purchase vaccines in bulk or monopolize its distribution when it's newly released in the market. While pre-purchasing itself is a significant monetary incentive for companies to carry out research, there is a lack of global regulation to prevent economically powerful countries to create shortages of vaccines in less developed countries by pre-purchasing them in large numbers. Additionally, researchers point out that vaccine nationalism can be detrimental to even countries like the USA who have al-

ready pre purchased vaccines because expensive healthcare is going to limit its access

This pandemic has exposed the weak healthcare infrastructure around the world. There is barely any political will required to lobby for good healthcare policies especially in a country like India where the largest sections of the population have no choice but to access overcrowded government hospitals.

Lack of access to proper healthcare makes the marginalized vulnerable to promises of alternative medicines like homeopathy and Ayurveda. Globally, there has been enough confusion over the use of certain drugs as a cure for Covid and scientists have repeatedly proved these claims wrong. As of now, several drugs are being used to treat Covid patients but most of these drugs are already used to treat serious respiratory illnesses or viral diseases. Ramdev Baba made headlines with his new line of Ayurvedic cure for Covid 19, with the absurd claim that tests were conducted over some 200 subjects. Randomized Control Trials require thousands of subjects and a long period of testing.

Meanwhile in early July the ICMR Head wrote to all 12 trial sites for Covid-19 vaccine candidates that all clinical trials had to be completed by 15 August for a public launch.

Covaxin is an inactivated vaccine made by using particles of Covid-19 virus that were killed making them unable to replicate or reproduce. Injecting them would aid in building immunity by creating antibodies against the dead virus.

Medical experts from India and abroad attacked this claim as unscientific and misleading. [Indian Express reports](#) 'A vaccine usually goes through three phases of human trials. The Central Drugs Standard Control Organisation has given approvals for phase I and II trials so far. According to details from CTRI, BBIL in its application estimated phase I and II trials to take a year and three months, including at least a month for phase I alone.' Even the most ambitious companies across the world are still conducting trials and launching a vaccine at the cost of efficacy. The potential health risks caused by incomplete trials are very dangerous.

ECONOMIC RAMIFICATIONS

Cataloguing the economic impact of the pandemic on India is perhaps impossible. But it is not at all surprising that the effects of a surprise lockdown and a sudden absolute halt to businesses around the country should be devastating. The bulk of India's workforce belongs to the unorganized sector or in factories which are exempt from labour laws because of the low count of workers they hire formally. Moreover a majority of these workers are employed as contractual labourers, where mostly no formal contract exists which renders the contractors vulnerable to abuse and exploitation. [Rahul Suresh writes](#) that according to the Sixth Economic Census 97.39 million workers work in establishments without any hired workers whereas 118 million workers work in establishments with at least one hired worker. Broadly, the former category falls under the Shops and Establishment Act and the latter with the Factories Act. The primary legislation which governs the working conditions and safety measures of registered factories is

the Factories Act of 1948, which is applicable only to factories with 10 or more workers. Naturally, a lot of factories formally hire less workers and hence do not come under its regulatory constraints.

Sometime in May, several state governments amended provisions of the Factories Act through the issuance of ordinances which temporarily suspended crucial labour law standards. For example they extended the factory worker's daily shift to 12 hours per day from the existing 8 hours per day. As several legal experts and activists have pointed out, this is a [huge blow to decades of labour rights](#)' activism as it takes away the already inadequate measures in place which afforded workers legal protection and bargaining rights. Since the beginning of the lockdown industrial accidents have increased at an unprecedented scale, costing lives and livelihoods. Suresh points out:

Owing to the higher overhead repairing costs, it is observed that Indian employers pay more attention to corrective maintenance (i.e. replacement of machinery when the complete breakdown occurs) relative to preventive maintenance where scheduled maintenance of machines and equipment is undertaken at regular intervals [to avoid breakdowns](#).

The nationwide migrant crisis has exposed the extreme conditions of precarity that the majority of workers work under. Migrant workers are vulnerable to multiple kinds of abuses since they work away from their homes, in states where they have little to no opportunity to influence the political mandate. The Central Government did not come up with any solid preparatory measures anticipating the fate of migrant labourers working as daily wage earners or the huge spectrum of workers from the poorest sections of society who travel across India for work. Numerous workers have died of exhaustion, hunger or illness attempting to walk back to their homes. In fact, it took almost three months for the government to launch 'Shramik Special Trains' to transport workers back to their home states. Many workers face joblessness and destitution even if they return to their home states. There are reports of massive layoffs or factories doing away with safety measures and humane work conditions to speed up production.

Starvation and malnutrition are likely to increase by leaps and bounds as people lose jobs and businesses shut down. The Public Distribution System or PDS which provides access to subsidized foodgrains through a network of ration outlets is also going to be under severe stress as the number of people requiring access to rations will swell up. Economists like Jean Dreze have suggested that large quantities of food stocks should be released and distributed in states. He also points out the problems waylaying such a measure but overall [issuing emergency ration cards](#) to those whose applications are pending will create a small dent in the food stocks while possibly saving families from the devastation of hunger.

It is important to note these details to assess the Central Government's promise that ration would be distributed through '[One Nation, One Ration Card scheme](#)':

The National Food Security Act, 2013, mandates that two-thirds of the population be given ration cards to access to the PDS. When the NFSA was rolled out, the Central government used 2011 population figures to fix coverage or the number of people who would be entitled to subsidised foodgrain. Due to increase in population, the Central government now covers closer to 60% (not 67%): around 81 crore Indians out of more than 130 crores today. Persons entitled to subsidised grain under NFSA are issued either a "priority" (entitled to 5 kg

per person per month) or “Antyodaya” (entitled to 35 kg per family per month) ration card . Some states extend PDS coverage beyond coverage caps imposed by NFSA, and issue their own non-NFSA ration cards. All such people are tied to a particular PDS outlet in their neighbourhood or village. Each PDS outlet serves a fixed number of ration cards, and it receives ration supplies from the Food Corporation of India based on the number it serves.

In order to deal with the imminent hunger crisis the PM launched the ‘Garib Kalyan Yojana’ which distributes ‘five kg foodgrains per person and one kg pulses per household free of cost’ but this will apply to migrant workers only when ration cards are issued to them as soon as possible. Besides, there are already reports of large populations eligible for food grains under the scheme [not receiving it or](#) falling prey to local prejudices. The scope of ‘One Nation, One Ration Card’ scheme was [lauded by experts](#) as it could potentially provide food security to migrant workers but the system demands a high degree of efficiency as it has to [integrate data across states](#).

The aim of the ‘[One Nation, One Ration Card](#)’ scheme is to make ration cards portable which means that workers from one state can access rations from the state that they work in. While the idea behind this scheme is tailored to help migrant workers.

Some of the problems are as follows:

A large section of the poor and underprivileged do not have ration cards. Job losses and absence of cash flow means that such people will be unable to access the PDS system. Applying for and getting a ration card confirmed is a long process riddled with bureaucratic blockages.

In many states Ration Cards are issued as family cards. What will happen when a migrant worker travels with his ration card to some other state?

[The third problem is that](#) ‘logistics are designed to supply a fixed quantity to each PDS outlet once a month, based on the number of people it serves. “One Nation, One Ration” would mean that the number of people served by a PDS outlet will fluctuate each month, so the supply logistics would have to be rejigged as well. If 20 migrant workers from Madhya Pradesh show up at a ration outlet in Delhi, and are given their due, the outlet will have less grain for the regular PDS ration card holders.’

TRANSPARENCY AND ACCOUNTABILITY

PM Cares Fund

The Disaster Management Act of 2005 sanctions the use of the National Disaster Relief Fund or the NDRF. This fund is used in the event of natural or manmade disasters of a certain scale. The Fund is replenished by [an annual credit from the budget](#) and there are provisions for public donation. Strangely however the NDRF did not have a functioning bank account in which the public could transfer money. It was only in the middle of June that the government begun a process of opening a bank account in response to RTI appeals filed by Lokesh Batra. This

fund is subjected to the central audit and fulfils the criteria of being a public authority which somewhat guarantees transparency since it can be accessed through the Right to Information Act.

In order to deal with the pandemic crisis the Prime Minister's office (PMO) constituted the PM Cares Fund. It was stipulated that the fund will accept donations from the public and it would be run by private trustees with cooperation with the government. Since its inception on the 28 March, the use of the fund and its functioning has raised repeated questions regarding transparency and efficient management. Several RTIs have been filed to seek an audit of the fund. The government has responded to the RTI claiming that since the PM Cares Fund like the PMNRF set up by Jawaharlal Nehru, has not been set up by a legislation or by the Parliament, it does not fall under the purview of the RTI. Even though both funds accept donation from the public and the PM along with three other ministers are ex-officio members of the committee, they insist on being exempt from the central audit and RTI purview. This claim has also been [challenged legally](#) and in [mid June a bench of the Supreme Court](#) suggested that donations made to the PM CARES Fund should be transferred to the NDRF which could then be subjected to the central audit. However, the Centre [submitted an affidavit](#) defending the existence of PM Cares as a separate fund, which should not be absorbed into the statutory NDRF. They have also defended their claim that the PM Cares fund, since managed by private trustees is not legally obligated to share information like a 'public authority' would. Interestingly, the affidavit also argues that criticism of a few should not cast doubt on the effectiveness of the fund, when organisations and individuals from around the world have donated large amounts to it. How this defence counters the legitimate demand for transparency is not at all clear. It is strange that the PMO should insist on the proceedings of a fund being kept opaque and refuse RTI enquiries by arguing that the fund is effective. Some have also argued, that since the legal origins of the fund itself is kept secret, it is difficult to challenge its terms and conditions. How does one measure the effectiveness of a fund, or how much money is coming and going into it, its procedures and legal origins, when right to information is curtailed?

PM Cares is supposed to be audited by an independent auditor. However the mode of appointing the auditor is shrouded in mystery. Infact, RTI activist Saket Gokhale, who filed a RTI enquiry 'asking for copies of documents related to PM CARES including the trust deed, the details of the trustees, a copy of the trust's tax exemption certificate, and other bylaws governing the trust', writes that the political connections of the auditor, [Sunil Kumar Gupta](#) with members of the ruling party and its religious activities, undermines his independence in substance and appearance. Gokhale points out that there are several strong reasons why PM Cares should be deemed as public authority, one of which is as follows:

several government-owned public sector utilities (PSUs) and Union ministries have publicly declared contributions of crores of rupees to the PM CARES fund. This clearly makes PM CARES an entity that is "substantially financed, directly or indirectly by funds provided by the appropriate Government" thus making it public authority under the RTI Act, 2005.

The breaches of accountability are evident and follows a pattern of opaqueness which is not exclusive to the NDA government as the Prime Minister's National Relief Fund has also been riddled by such problems.

Indian jails are highly over crowded. The level of sanitation and general cleanliness is mostly dismal, invariably damaging the physical and mental health of prisoners and under-trials. [As per the last count](#), put out by the National Crimes Record Bureau in 2018, the country has about 4,50,000 prisoners, a number that exceeds the official capacity by about seventeen percent. Prisons in Delhi and Uttar Pradesh have among the highest occupancy rates, over fifty percent above capacity. During a pandemic, concerns around everyday hygiene and sanitation have been growing graver with newer directives for stricter sanitation measures being released everyday, one wonders what happens in overcrowded unsanitary prisons?

It is important to remember that those occupying jails fall under two categories, convicted prisoners and undertrials. In the judicial system, cases often drag on for years, which means most arrested undertrial prisoners end up facing unofficial sentences for long periods of time.

Therefore, on 16 March this year, a Supreme Court bench led by the chief justice Sharad A Bobde took suo motu cognisance of the situation. A week later, it ordered states and union territories to form high powered committees for determining which class of prisoners could be released on parole or interim bail.

The criteria offered as a suggestion by the apex court and then keenly appropriated by various states seems neither reasonable nor geared towards achieving its desired objective. It seems to suggest that convicts or under-trial prisoners who have been charged with minor crimes enjoy a right to health and life, whereas those who have been convicted or are awaiting trial for major offences do not. For instance, following the seven-year classification, a 70 year old prisoner under trial for forgery who is highly vulnerable to the infectious disease would not be eligible for interim bail, while a 25 year old under trial for theft would be. The criterion runs contrary to those being followed internationally.

This becomes clear when we look at the United Nations Recommendations which state that the priority should be to release vulnerable prisoners, those most at risk in crowded spaces. Additionally the UN High Commissioner for Human Rights Michelle Bachelet emphasized that the priority should be to release political prisoners, those who have been convicted for dissenting against the state.

Despite these plausible recommendations, there has been a clear pattern of reluctance to substantively look at the health and safety of prisoners. [This Print report of June](#) states:

...three months down the line, jails continue to be highly populated and several of them are now emerging as Covid-19 hotspots. For instance, 23 inmates and 45 prison officials have tested positive in Delhi's Tihar jail. The number is much higher in other prison complexes. According to the legal experts The Print spoke to, in addition to the severity of the offences, health and age should have been considered as the primary criteria for bail, given that those with comorbidities are more susceptible to the virus. Furthermore, the arbitrary exclusion of certain undertrials such as those who were booked under the Unlawful Activities (Prevention) Act, those who had committed economic crimes, and those who are foreign nationals—also appeared illogical to certain lawyers.

Inability to prioritize health has already led to disastrous results. 79 year old poet and activist [Varavara Rao](#) was given delayed medical attention, despite showing clear signs of severe ailments. Testing him for Covid was delayed and he was refused bail several times despite falling in the category of severely immunocompromised patients requiring immediate attention. When this led to a national outrage, he was shifted to a hospital where his relatives found him lying in [his own urine](#), unattended by nurses. It was only after a long and painful struggle and [media attention](#), he was shifted to a private hospital.

Seven months pregnant Safoora Zargar was denied bail on the mere pretext that her participation in a citizens' protest was close to the place where riots broke out. [Lawyers Karuna Nundy and Abha Singh](#) discussed in detail the major lapses in logic, the absence in specific reasoning and the use of vague rhetoric to justify the denial of bail. This judgement has been [severely attacked](#) by lawyers for being legally unsound and biased.

From April onward, a series of arrests have been made. The prime targets are academics and social activists who are vocal in their opposition to the ruling party's actions. Almost all of them have been charged under the Unlawful Activities Prevention Act or [UAPA which have been severely criticised by multiple](#) lawyers for being arbitrary and antithetical to the core of a democratic polity. It criminalizes, with severe punishment, the mere harbouring of certain ideas or expression of them. It can also lead to arrests on the mere suspicion of someone indulging in anti-national activities or terrorist activities very loosely defined and more perniciously for spreading 'anti-national' literature.

While it is important to carry out investigations for ongoing cases, it is a matter of worry that academics and social activists who have been vocal about their criticism towards certain government actions have been solely targeted with a swiftness which when compared to other equally serious cases seem odd. Compare, for instance the number of arrests made after the major expose of Israeli surveillance and spying software Pegasus which was illegally planted in devices of social activists, journalists and other frontline human rights defenders who have been critical of governmental action. Since the software could only be purchased through a governmental contract, the Indian government is implicated in illegal spying of journalists, professors and social activists which amounts to a violation of the fundamental right to liberty and privacy.

●●●●●●●●●● Surveillance and Aarogya Setu

[Aarogya Setu is a contact tracing app](#) developed by the National Informatics Centre under the Ministry of Information and Technology. When the government first decided to extend the nationwide lockdown in May, it issued a slew of directives under the National Disaster Management Act. As mentioned above, the Act authorizes the government to take all such measures which would aid in preventing the spread of the disease. One of the guidelines mandates the use of the Aarogya Setu App for all private and public employees and to ensure hundred percent coverage. This app uses GPS coordinates and bluetooth data to trace a person's location to establish whether they have physically come in contact with someone infected with the virus. The use of contacting tracing apps have greatly helped in curbing the spread of the virus in countries like South Korea and Singapore. In brief this is how the app works:

When someone registers on the app, their name, phone number, age, sex, profession and the countries they visited in the last 30 days are collected, and stored on a server run by the Government of India. This is stored with a unique ID, which is used to identify the user in all subsequent app-related transactions. This digital ID is also associated with any information that may subsequently be uploaded. At time of registration, the person's location details are collected from the device, and uploaded to the server. For the app to do its job, users must keep the location and Bluetooth features switched on at all times.

Right to privacy is a fundamental right in the Indian Constitution, This implies that when citizens share personal information, especially of sensitive kinds like location, there should be a law which precisely mandates how this information ought to be used, stored and disposed of after the pandemic ends. Moreover when restrictions are imposed on fundamental rights there at least has to be a law which lays down how the infringement is suitable and proportional to the end goal. Mandating the use of the app has not been implemented through a legislation. As [lawyers have pointed out](#), the National Disaster Management Act does not contain guidelines which are precise enough to authorize such an infringement without it becoming arbitrary and open to possible rampant misuse. The government will also have to provide a rationale for using this particular variant of a contact tracing app which is especially intrusive and justify why less restrictive measures could not be used. This test of necessity also raises the question of access. Studies have shown that absence of adequate [smartphone penetration \(Indian Express reports its only 50 percent\)](#) can defeat the effectiveness of the app. Therefore the extent to which this app is going to be suitable in the Indian context is not settled at all. Finally, the guidelines mandating the use of the app has been criticised as legally unsound and overhasty as it does not have specific safeguards against the use of information collected by the app after it has been uploaded on the server or a precisely outlines a sunset clause (specific guarantees about the withdrawal of the app when the pandemic ends and the use of collected information). For example, the CovidSafe App used in Australia has this specific guarantee, "We cannot access any contact data stored on a device, or share this with health officials, unless and until a COVID-Safe user consents to upload the data to the data store." Additionally all data is automatically deleted after 21 days from the COVIDSafe app.

However, it is possible to design a contact tracing app without sacrificing user privacy. This [YouTube Video](#) explains in detail how that can be achieved.

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