# RISE IN HATE-CRIME AND ACCESS TO JUSTICE IN COVID 19 PANDEMIC

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# Abstract

The world is confronting unforeseeable and extraordinary circumstances that grow due to the impact of Covid-19. The global economy is adversely affected and the legal fraternity and justice system is no other exception. The law and justice are the fountainheads through which people can uphold their rights, seek recompense for their grievances and protect those who are at risk of being overlooked. Access to justice cannot be denied to any woman during this time of global pandemic. The researchers focus on the major threats of domestic violence to women’s lives associated with the Covid-19. With the outbreak which is tremendously growing in all spheres, the worldwide disruption such as racism, caste-based violence and classism set to continue. The number of incidents against China and ethnic Asians has been reported worldwide and various racist comments and crimes against Asian Communities recorded since the pandemic started. In India, Northeast inhabitants are facing racism through denouncing remarks and physical assaults. They are culpable of reverse racism in their own states. India has faced many incidents of caste-based violence during this outbreak. The coronavirus does not discriminate, it affects all. The ability to withstand the distress varies the rich and the poor. Many migrants and homeless are ceased from purchasing rations and entering protection camps. India is a country which cannot battle against coronavirus crisis without considering its class and caste divisions. Indian epidemic strategies are coloured with class bias as self-quarantine and social distancing cannot be feasible for a person sharing a tiny room with 10 people in a slum. In the current pandemic crises and the declining political systems, the role of the judiciary as a justice delivery mechanism of a country becomes more vital, it’s the duty of every judge to be readily available to serve fellow citizens especially in the matters involving the protection of their basic fundamental rights.

**KEYWORDS**: *Violence, Racism, Classism, Outbreak, Pandemic, Judiciary*

# Introduction

The complete lockdown circumstances in the country avert the physical conduct of court proceedings. The non conduction of proceedings generates numerous problems in justice delivery system. The world is facing extremely unpredictable situation as it persistently fighting against this global pandemic. The economy is declining and the legal fraternity and judicial system seems to be no different due to absence of digital framework.

The pandemic has changed all ways of life, forcing the biggest lockdown in history with billions of people advised to stay indoors. The spreading of corona virus diseases not only creates health risks but also give opportunity to the dark element of the society due to social distancing and misinformation. There are number of fake apps and websites that are generating fears in the mind of general public by spreading fake news in this predicament. The publisher of this kind of hoaxes are taking advantage of the circumstance where people are trapped inside their home and trying to get every possible information about Covid 19 in order to stay safe and away from infected people.

The broadening of alleged information is much more dangerous than spreading of infection as it started materializing the color of communal violence based on racism, harassment, classism or caste. These are creating catastrophic events which are demolishing our societal structure.

## Hate Crimes

Hate crime is always been prevalent in India. It is motivated by a biased mindset of a person concerning race, colour, religion, sexual orientation, disability, class or ancestry of an individual or group of persons of a particular social class. This type of illicit act is generally done to generate fear in the minds of masses belong to the group of common characteristics. In the modern era, the meaning of hate crime has evolved, it is beyond discrimination, lynching and assaults and now includes speech that is defamatory and induced the violence among public.

Hate crime is considered as heinous than any other criminal offences as it is directly ambushed on person’s rights entrusted to him therefore, it not only causing injuries to a particular person but also up surging a social turmoil.[[3]](#footnote-3) The increasing rate of hate crimes in society resulted in an alarming situation. According to the report of Hate Crime Watch of April 2019, 282 hate crime cases with 100 deaths were reported. Muslims were in majority with 57% cases followed by Christian with 15% cases and then Hindus with 13% cases.

Maharashtra Police has registered around 400 cyber-crime cases associated to Covid 19. According to the report out of 400, 234 cases are linked to hate speeches and attempt to create communal angle to the spread of disease.[[4]](#footnote-4) A large chunk of these cases was originated from Tablighi Jamaat meet in Delhi which turned out to be the hotspot of infections, accusations and counter accusations. These cases are communal in nature, creating hatred among people of different communities. The circulation of these type of messages on the online platform are potential forerunner to serious law and order issues.

The north easterners in India are being continuously insulted by neighbors and their landlords who are well aware of their nationality. The Covid-19 pandemic has generated the feeling of fear and disgust in the minds of north east inhabitants of the country.

**DOMESTIC VIOLENCE**

Domestic violence involves a pattern of psychological, physical, sexual, financial and emotional abuse. Acts of assault, threats, humiliation, and intimidation are also considered acts of violence**.**

Many women faced the verbal and physical abuse in normal days but lockdown has augmented the cases of domestic violence in all over India.[[5]](#footnote-5) Numerous cases of domestic violence have been reported since the imposition of lockdown, the complaints are from both rural and urban areas. The number of complaints received during this period was much higher than what was reported during pre-lockdown months.

The recent data released by National Legal Service Authority states that the Uttarakhand reported highest number of domestic violence cases in the last two months of lockdown, followed by Haryana and National Capital Delhi. Some stunned numbers were disclosed in the report which brought up that a total of 144 cases of domestic violence were registered in Uttarakhand. From Haryana, the number of cases was 79 and a total of 69 cases recorded from Delhi.

The situation is not trounced only in India but women across the globe who were in abusive relationship have also come into a standstill. The same violence is repeated and perpetrated frequently, and on a regular basis during the lockdown. Various domestic violence helplines and organizations all over the world are working constantly to deal with this global issue.

In India, the National Commission for Women (NCW)[[6]](#footnote-6) has declared an emergency alert about the rise in number of domestic violence cases since the national lockdown began. In addition to violation of human rights, victims of domestic violence can counter with various physical and mental health difficulties such as risk of chronic disease, depression, sexual disorders, PTSD (post-traumatic stress disorder) and substance abuse. Lack of social support systems is one of the causes of increasing domestic violence cases during these times.

Generally, the victim could avoid a violent situation by staying elsewhere, but that option is not available right now due to lockdown. The term ‘lockdown’ itself gives a sense of being trapped. This type of harassment is totally unavoidable and the perpetrator is 100 percent responsible. Victims should not try to protect the actions of the perpetrators, as there are none. Acceptance of such actions may lead to a vicious cycle of abuse.

## Racism

The northeast inhabitants of India are facing severe racism during lockdown. There has been rise in racist attacks and discrimination against northeast citizens living in different states of India, in the wake of Covid-19 pandemic. People addressed them as ‘Go Corona’ and blame them for eating animals and spreading virus. People treat Northeast inhabitants differently. They are often confused with the Chinese and have to prove their Indian identity.

Several people in Northeast are working in unorganized sectors such as spas, salons, restaurants and hotels are struggling to make their ends meet. They are seeking help from the State government with basic grocery supplies and with a means to defer paying their rents. There are many instances of attacks on doctors and medical staff and incidents of misbehavior with the students from northeast.[[7]](#footnote-7) The Honorable Prime Minister Mr. Narendra Modi condemns such incidents and underlined that such cases need to be dealt with firmly.

The incident of Manipur woman who had been spate on and called Corona by a middle-aged man sparked outrage for racism. A group of students were allegedly attacked and beaten by their neighbours who demanded to leave the premises. The North-eastern people in India have been subjected to harassment and discrimination in the country as novel Corona virus has been originated from Wuhan, China, before becoming a global crisis. Since then, there has been a lot of hateful abuse against the Chinese people and people in India resembling Northeast citizens with the citizens of China and abusing them for spreading this deadly virus.

## Classism

Classism can be defined as “*prejudice or discrimination based on class*”

To fight with this global pandemic, the government of India is enforcing the lockdowns, encouraging social distancing, self-quarantine and hand hygiene. These measures are essential but driven by class baseness. India should improvise its epidemic management strategies by contemplating the marginalized communities. As how could you expect self-quarantine, social distancing and prioritizing hand sanitizers from a person who shares small shack with ten people in a slum and struggles for one meal a day. Low income groups whose job involves cooking, cleaning, grooming, delivering food, groceries and more are most unsafe to Covid-19.

The lockdowns prohibit the public gatherings, put restrictions on travel and encourage work from home. These activities force the labor class to lose wages. The family of daily wage earners have been forced into poverty, children into malnutrition and workers into unemployment. Words and phrases used for battling against Covid-19 should not leave a legacy whose reversal will require a similar struggle done by the Dalit leaders, a long time ago. Social distancing denotes classism and castes. This should be replaced by physical distancing.[[8]](#footnote-8)

The coronavirus does not discriminate, it affects all. The ability to withstand the distress varies the rich and the poor. Many migrants and homeless are ceased from purchasing rations and entering protection camps. India is a country which cannot battle against coronavirus crisis without considering its class and caste divisions. Our culture always discriminated or ill-treated people from different backgrounds on various parameters and this global pandemic act as efficient reason due to failing healthcare systems, governmental non-action plans and our inability to care about marginalized communities, create class division.

Social distancing while having a source of income should include all the employees whether they are employees at large corporation or within house. they should be given paid leaves so that they can take care of themselves and their family and should be treated with dignity.

Leprosy and Malaria provides glaring example of class discrimination inherent in colonial public health services. The administrative authorities were having insufficient framework needed to separate all the lepers but targeted only poor lepers who were identified as most vulnerable vectors of the disease. During the spread of Malarial fever, the government suggested strict quarantine to only illiterate third-class passengers boarding from the affected countries to India whereas strict quarantine did not apply to elite class returning India from affected countries.

## Caste based violence

Communal structures shaped by repressive structural forces of classism, casteism, communalism, elitism and patriarchy render a certain section vulnerable. Viruses and bacteria do not discriminate but society does. With the hike in rates of corona virus cases in India, the instances of caste-based violence are up surged. It is however true that the exceptional nature of the crisis affects the global economy, society and public health have been reasons enough to take harsh counteractive standards by the government. But the biased measures taken by the Indian government are extremely insensitive.

There are number of incidents take place all over India amidst lockdown where people from low caste say that they are subjected to caste slurs and humiliation. Caste based violence has been increased under the covid 19 lockdown just as in the case of domestic violence. “At some time in the history of the Hindus, the priestly class socially detached itself from the rest of the body of people and through a closed-door policy became a caste by itself,”[[9]](#footnote-9)

Caste is a virus which has virtue of self-duplication. The Brahmin communities commences the practice of social distancing which led to caste pandemic but now in the case of novel corona virus the order of things evolving are slightly different.[[10]](#footnote-10)

The migrant workers, sanitation workers, manual scavengers and garbage pickers have no protective gear other than the masks to keep themselves safe. These people are not only unduly affected; their social conditions are stand in the way of their potential to retrieve.

## Access to justice amidst COVID 19

The global economy is adversely affected and the legal fraternity and justice system is no other exception. The law and justice are the fountainheads through which people can uphold their rights, seek recompense for their grievances and protect those who are at risk of being overlooked. Access to justice cannot be denied to any person.

In Anita Kushwaha v. Pushap Sudan (2016) the Supreme Court ruled “*Access to justice is and has been recognized as a part and parcel of right to life in India and in all civilized societies around the globe”*. In *Swapnil Tripathy* (2018), the Supreme Court, taking cognizance of the advance of technology, issued directions to enable live streaming of proceedings. In 2005, the central government introduced the National Policy and Action Plan for Implementation of Information and Communication Technology in the Indian Judiciary and also undertook the e-Courts Mission Mode Project in 2010.

One, who knocks on the doors of justice, can never deny the access to justice even at the time of lockdown. Extraordinary situations that exist today demands the intervention of judiciary in cases such as enforcement of constitutional right of life, health, food and also the right to access lawyers and court, these cases require urgent decisions. Hence, non-interference of judiciary may result to the denial of justice.

Hence, the severely affected lower class and migrant workers filed a petition in Supreme Court asking for relief. Ironically, when the time for hearing of their case came was constantly delayed while other cases which were not of such national importance were given priority.

A petition was filed by two social activists Harsh Mander and Anjali Bharadwaj who are working for the stranded migrant workers in different parts of Delhi. The petition was filed on March 31 and the case was disposed on April 21 by stating “we call upon the respondent-Union of India to look into such material and take such steps as it finds fit to resolve the issues raised in the petition”. [[11]](#footnote-11)

 Likewise, in Guwahati two activists working for the rights of minorities were arrested by police ramping their fundamental right to be defended by the legal counsel under Article 22 of the constitution. Such arbitrariness is being practiced by police officers. With justice being inaccessible the principle of rule of law is freely being violated, which is not supposed to be a casualty to pandemic.[[12]](#footnote-12)

However, there are several reports of summary punishment across the country by the police without the sanction of law. Due to inaccessibility of justice at the time of enforcement of strict lockdown the citizens of the country become helpless. There are number of instances which are comprehensive of police whimsicality. They vandalized the vegetable carts and tortured the migrant workers and homeless. This is clear violation of the principles of rule of law.

The quality of judgment is of no utility if justice cannot be accessed by people as accessibility is the main element of justice. Hence, the current crisis provides a great opportunity to develop our e-courts model so that even at the time of tragedies and people can approach judicial system in hope of justice.

# Conclusion and Suggestion

The novel corona virus has put unprecedented challenges to justice delivery system in India. The pandemic is immediate, real and unfolding before our eyes. But, it’s not new. It is something which is accumulating for years. The global pandemic is menacing the countries, industries and people likewise. But that should not be taken as equalizing force.

The social framework is determined by the power and privilege that exists in society even in the hard times like Covid-19 and in our country this framework is quite deeper. The chain of hate crime events in the recent times bears an added dimension, people being spate on, denied entries on groceries shops and expelled from rented houses. There are countless incidents of physical assaults, humiliation and sexual violence which were on hike in Indian states during lockdown.

 The researchers would like to put forward some suggestions:

* India should re-examine its policies of epidemic management. These policies must include under-privileged, marginalised and vulnerable communities of the society.
* Alleviating the medical, economical and socio-political factors of pandemic involves massive efforts from both government and citizens of a country. The centre of strategy design should be marginalised sections of a country.
* Considering the societal infrastructure in coordination with the local leaders should be empowered to draft hyper local strategies for overcrowded neighbourhoods, homeless shelters and prisons. The epitome adopted by Kerala is a perfect example for all states. It signified inclusive leadership by summoning religious leaders, panchayat members, and urban local bodies, members of civil society and non-governmental organisations to establish communication in languages preferred by migrants to aware and prevents inflammation of the disease and engaged prisoners in producing masks.
* Access to justice should not be denied even at the time of epidemic. So, judiciary and executive should institute ways to serve justice.
* Dalit leaders like B.R. Ambedkar, Periyar, Jyotiba Phule and Kansi Ram struggled for years to remove the roots of Casteism from India. In this context, one must realise that languages entice cultural and societal values. So, words and phrases used for battling against Covid-19 should not leave an imprint whose reversal requires a same sort of struggle. Therefore, social distancing should be urgently restored by the word physical distancing as social distances reflects shades of castes.

Lastly, as we all know that such pandemics have accord and been fought before by the human civilization in the past but the unique thing that they bring along with them is the act of changing and molding things. Thus, the prejudices and stereotypes must be left behind and we should welcome the fresh future with more openness and clarity.

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