

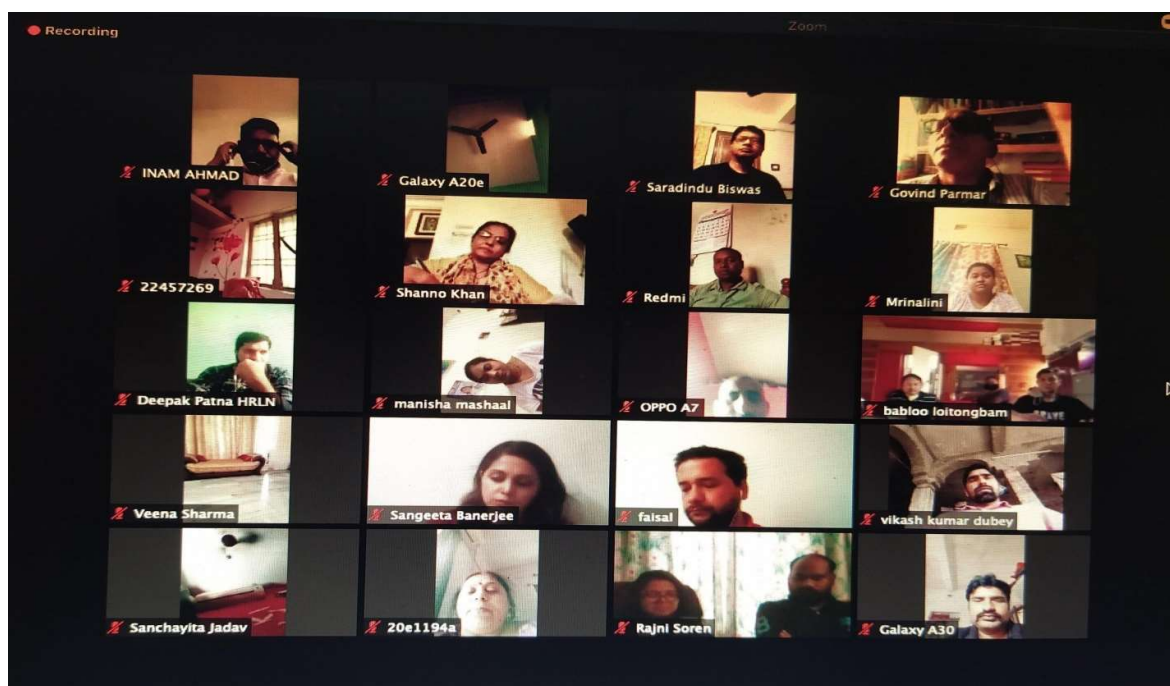
Report on the webinar on

## Covid 19 and the Use of Law

Date: 07.05.2020

Time: 9 AM - 2 PM

*Written & Edited by  
Aishwarya Adhikari*



## Schedule for the Webinar

Time	Speaker
9:00 - 9:10	Adv. Gunjan Singh (Moderator)
9:10 - 9:20	Nirmal Gorana
9:20 - 9:40	Adv. Sonal Tiwari
9:40- 10:00 (Questions and Answers)	
10:00- 10:10	Adv. Siddharth Seem
10:10- 10:20	Adv. Snigdha Tiwari
10:20- 10:30	Adv. Deepak Singh
10:30 - 10:50 (Questions and Answers)	
10:50 - 11:00	Adv. Ritu
11:00- 11:10	Rachana Mudraboyina
11:10 - 11:20	Adv. Niete Koza
11:20- 11:40 (Questions and Answers)	
11:40- 12:00 (Break for Tea)	
12:00- 12:10	Adv. Fazal Abdali

12:10- 12:20	Adv. Ronita Bhattacharya
12:20- 12:30	Adv. Pratik Rupala
12:30- 12:50 (Questions and Answers)	
12:50- 01:00	Concluding Remarks by Adv. Gunjan Singh

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## **1. Introduction**

Prior to the announcement of the National Lockdown on 25 March 2020, a number of courts had shut down in response to the present pandemic of COVID 19. Furthermore Human Rights Law Network cancelled a number of Consultations and Meetings that were to be held in the during this period. As soon as the lockdown was announced it became clear that human rights was a major concern that had to be dealt with, with people below the poverty line not being able to access food security schemes, women and lactating mothers not being able to access schemes for their reproductive health, migrant labourers being treated like dirt, the number of human rights violations that came to the forefront were very many.

Initially the courts seemed unapproachable, with lawyers and affected people attempting to figure out how the issues would be raised in court and conducting proceedings through video conferencing. Slowly but steadily HRLN lawyers started filing cases in court beginning with one of the cases of providing relief to persons in prisons to migrant labourers to tackling a number of issues.

Parallels being socially conscious individual's lawyers and social activists realized the importance of giving direct aid to persons, lawyers and activists were involved in distribution of dry ration and grains, distribution of masks and sanitizers and in a number of places distribution of cooked food for those who were in urgent need of food. Through the network and through various partners, HRLN covered various marginalized populations including PLHIV, Transgender Persons, persons living in slums, migrant labourers among a range of people across the country.

***In the wake of Covid 19, a group of researchers and lawyers from HRLN began the process of organising a series of workshops over webinars, to begin the collective conversation around emergent issues as well as to collate all the individual work done by states. The main objective of organising these webinars was to facilitate learning and sharing of experiences of lawyers/social activists involved in litigation/relief work during Covid-19 lockdown and develop strategies for future work.***

*The first in the series of webinars was a detailed discussion surrounding Covid 19 & the Use of Law. The meeting was organised on **7th May, 2020, from 9 AM to 2 PM.***

***Moderator: Advocate Gunjan Singh, HRLN Delhi***

Advocate Gunjan started the meeting by appreciating the efforts of all state units of hRLN for promptly helping in accumulating data on ongoing deficiencies in the states to cater to the lockdown situation on marginalised communities. He reported that the first move to Supreme Court (SC) in the case of Swami Agnivesh vs Union of India & Ors, was to seek immediate relief for the poor, informal sector workers, slum dwellers, homeless and economically weaker sections, living in hunger due to the outbreak of pandemic disease Covid 19 and nationwide lockdown. This petition was filed with the collective help of data brought in by all states, to the prevailing conditions of migrant workers and marginalised communities struggling to survive the brutal effects of the sudden lockdown, without ample amount of preparation by the Centre or state governments. Gunjan also congratulated the effort of all lawyers and activists for actively participating in relief work during these times, to the best of everyone's capacities. He said that this move acted as a stimulant for most and inspired and motivated people to get to the finer details and file several petitions seeking relief for the marginalised communities in India.

**2. Speaker: Advocate Sonal Tiwari, HRLN Jharkhand**

As reported by Sonal, in Jharkhand during the time of the pandemic, lawyers and activists filed 6 important cases, which received positive orders. These were:

1. Migrant workers- a petition was filed in the state, seeking relief for the migrant workers who were the worst affected in the state. The sudden imposition of lockdown, did not equip the state government to take any measures to ensure the distribution of ration and restricted the option of travel for all. The petition demanded immediate action of provision for ration for the next 2 months in advance and allotment of nodal officers and directive to district administration to facilitate the process of distribution of ration, essential services, etc.
2. Right to Food- Cases were filed to provide food/ rations as there was limited and very less supply of food, leading to hunger in the state. In this regard, Adv. Sonal mentioned that there are **300 Kasturba schools**, mainly for the SCs/ STs but no proper distribution of food was done there as well. The PIL filed to receive positive orders allowed the children and the state to have proper access to food and nutrition. The petition also argued for a directive to be issued to operationalise **Daal Bhaat Kendra's** in the state.
3. Transgender Rights- Due to non-availability of Aadhar Card of the Transgender community, none of them were getting access to ration. The community themselves started providing 'Dal Bhaat' (Lentil and Rice) to survive. But, after filing the petition, the court ordered aadhar card to be issued to all trans persons

and promised to come out with guidelines or schemes which will benefit the community as a whole. Sonal added that the government was not that supportive in this entire procedure of seeking relief for the community.

4. Disposal of Dead bodies- a PIL as per the guideline of WHO on dead body disposal in the wake of COVID-19 was filed which allowed the people to bury their lost ones without any problem. Prior to this, the burial grounds were not allowed to bury the dead as they had a misconception that by burying or burning, the infection might spread. Sonal explained that it was essential to get a court order passed, to further break the myth in the society that the human lung would be infected if burials were allowed. He said that according to the guidelines of WHO if the infected dead body is packed well, spread of infection can be restricted.
5. Welfare of the Advocates- A PIL was filed for the welfare of Advocates and clerks. Rs. 15/- from every filing goes to the trustee fund from where the clerks and advocates receive Rs. 5000/-.

Sonal added that significant work has been done in Jharkhand, which required strategy and timely action as the cases filed were political in nature. Proper implementation and execution requires a plan as the court is also sometimes not willing to take up matters that involve the government.

### **2.1.Speaker: Nirmal Gorana, Activist, HRLN Delhi**

Nirmal Gorana started the session on a note as to how no NGO, CBO, or any other significant stakeholders of the society approached or assisted the poor, marginalized and the informal sector workers. More than 50 crores suffered and out of them 90% lost shelter due to the lockdown and pandemic in the nation. There were no means of travel, shelter, food, due to which the migrant workers suffered. The urban and the rural economy is all dependent on these workers but the harsh reality showed a clear picture to almost everyone. According to his own experience, the builders at renowned construction sites refused to help the migrant workers and left them homeless in the time of crisis.

Most interesting and ironic part was when the distribution of food started, the migrant workers were refused there, as most of them did not have ration cards. Nirmal harped on the failure of the administration into taking adequate measures prior to the lockdown and the complete dilution of structures and systems, who fail to understand and recognize the population of people in India who live without ration cards. After 30<sup>th</sup> March, through the pressure generated out of the court orders, the government finally started distributing ration but the entire process was so slow that many had to live without food for several days.

Some very important and interesting schemes were released by the government but those were accessible only through online/internet portals, in the virtual world where a daily bread earner has no access. The migrant workers were beaten, thrashed and harassed by the government functionaries in various parts of the country, reports of which have already surfaced in the online portals. The conditions of shelter homes were investigated, as multiple complaints of them not having proper timing for providing food or maintaining basic hygiene / cleaning came up.

People in hospitals, and the quarantine centres faced many hardships in accessing the basic facilities and countering the stigmas from the doctors and the medical staff. The quarantined conditions were even more miserable.

Amongst all these, the wages of the migrant workers/ labourers were stalled. Hence, some legal action can be taken against the failure of the state mechanism, which might benefit lakhs of migrant workers and the labourers. Nirmal suggests that the entire work needs to be done in a very well planned and systematic way to ensure strategic litigation and speedy justice in the present scenario. He cites the example of the PM Care Fund, which is also not transparent and does not even fall under the Right to Information Act. He states that this gives a clear message of the uncertainty of the prevailing conditions and the various schemes at our disposal.

Nirmal states that the announcements that Shramik trains will be provided for the migrant workers had been circulated for a long time in the different platforms. But we are yet to see the outcome of the suggested plans by the government. In some parts of the country, it is said that money to the migrant workers, for travel to their respective states from their place of work, will be paid by the State and some by the Center, but, sources suggest a different picture altogether whereby the migrant workers were paying from their own pocket to avail ticket for travel.

Nirmal mentioned the work done by the HRLN team during this lockdown was very crucial as food was arranged for the poor and the needy. Dry ration was distributed and all the states coordinated together to implement the relief program. There was a follow up after every 15 days in all the areas where the food was distributed, as Nirmal coordinated the distribution process.

Nirmal also mentioned the rising cases of violence faced by women during the lockdown period. The women were helpless and were locked up in the same premises with the abuser and it is only recently that the media has started reporting hundreds of women facing domestic violence and abuse. He stated that we need to reach out to women to find out how many of them require help and have a list of them so that the courts or the stakeholders can reach out to them to offer help. A team of lawyers and activists should be formed and the information of such should be widely circulated, to take up cases as well as provide counselling services to the victims and survivors of domestic violence, at any given time. Additionally Nirmal requested the HRLN Rajasthan unit and the Punjab unit to reach out to a few labourers and migrant workers who are stuck in the state now and require immediate help.



## **2.2. Speaker: Advocate Siddharth Seem, HRLN Delhi**

Advocate Siddharth mentioned the initial confusion, which was created due to the sudden lockdown, in the country. He suggested that this was a perfect way of simultaneous imposition of harsh measures through which could go unnoticed and ignored; as on the very first day of the lockdown, the shaheen bagh protesters were forcefully removed from the protest site. This has been planned for a long time by the administration and the lockdown provided the right means to execute this plan of evicting protestors. The social movements, which were going on for a long time, were suddenly suppressed.

Following the initial period of lockdown and the initial chaos in the society, several petitions were filed in the High Court (HC) and the Supreme Court (SC). Siddharth had helped with several pending cases of the Assam unit. In Assam, due to the NRC and Foreign Tribunals Act in Assam, people were already living in detention centers. People living in 2018 after the ex parte order could not be defended even in the highest courts. The cases filed in the Supreme Court to receive positive order, surety on bail was changed from 1 lakh to 50 thousand. Time in the detention center was also reduced in times of pandemic.

The Bombay High Court gave small orders and listed them as regular matters. The Supreme Court directed the Bombay High Court to listen to cases and the Bombay High Court received many positive orders. Although, the Supreme Court did not act as it should have, according to Siddharth.

Siddharth mentioned the successful order passed by the HC in the ***Cachar Paper Mill Case***. The Delhi HC acted almost immediately, took it as an urgent matter, and passed an order asking the HCL Company to release the pending salaries of every worker. As a result, approximately 42 crores was released as first installments to the mill workers.

Though favorable orders have been received during this period, Siddhar states that online working in courts is not accessible to everyone in the country. He cites the example of Jammu & Kashmir (J&K) and in many states, where courts are completely shut and inaccessible for people. He also states that many people are not aware about available legal remedies to them in times of lockdown.

## **2.3. Speaker: Advocate Singhda Tiwari, HRLN Uttrakhand**

Advocate Signdha Tiwari, explained the case of the Nepalese workers/ labourers, who were stranded in the state of Uttarakhand. She stated that on gathering the information from the local newspaper, she contacted the labourers and learned that they generally work at very low wage and due to the sudden lockdown; many of them were unable to travel back to their states. The State of Uttarakhand failed to protect the workers; hence, adequate legal pressure was built due to filing of a petition by HRLN. As a result, the State also started looking at the situation of these

helpless migrant workers, and initiated action on their treaty with Nepal to facilitate travel opportunities. Shelter, food, sanitation and water facilities were given with joint efforts from the Center and the State machinery. Due to the massive reporting of the Supreme Court petition, basic facilities were provided in the State.

There was a severe lack of information on the issue of the number of migrant workers stranded in the state of Uttarakhand. Advocate Signdha Tiwari mentioned that they are still trying to get in touch with the people who are stuck on the other side of the border to identify whom are Indian and who are Nepalese in Uttarakhand. She further mentioned that all the advocates and the activists need to work on other aspects, as the workers are unlikely to get access to all the facilities provided via phone and media. Snigdha reported that accessing the court via video conferencing for all lawyers is difficult in a state like Uttarakhand due to network issues and for the same, suggestion to the court has been made. Representation on distress calls has been initiated and the State has been positive in providing help. The Police Control Room is helping to reach out to people without LPG gas facilities and rations.

#### **2.4. Speaker: Advocate Deepak Kumar Singh, HRLN Bihar**

Advocate Deepak reported that various important cases on transgender rights, shelter homes, food and dry ration distributions were filed in the unit. He also mentioned the importance of writing representations while having to wait for the courts to take up adequate actions and pass an order stating the same. Writing representation letters to the authorised signatories can often build the pressure on arranging for the required facilities, almost immediately. The Bihar unit had taken up this measure while the courts were suspended during the initial phase of the lockdown in India. He added that a copy of the representation should be sent to the Registrar of the court at repeated intervals, for speedy action.

Deepak stated that the unit had written to the commission for starting mobile vans providing hot, cooked meals to migrant workers in Bihar. This is a provision that is already mentioned in the Food Security Act, in occasions of crisis arising out of both natural or manmade disaster and crisis in the Indian continent. The mention of the guidelines were made in the representation, almost immediately after the imposing of the sudden lockdown without adequate planning on behalf of the State or Central government.

Further Deepak mentioned that with the assistance and guidance of Rachana Mudraboyina, Director of Trans Rights Initiative, HRLN, the Patna unit filed a petition demanding the issuance of ration cards for Tran's persons in the state. He stated that Bihar had more than 40,000 Tran's persons, who had no access to food or ration in the area. Due to the lockdown their means of earning a living was also suspended, which left them in a state of acute poverty and hunger.

Another petition was filed for access to crucial medicines for Persons Living with HIV (PLHIV). The petition also demanded the home delivery of such medicines, as travel was restricted according to the lockdown guidelines. He stated that the government and district administration had knowledge of all the PLHIV persons, living in different pockets of the states and those essential medicines could be delivered to their homes, despite the lockdown, if the government had taken up the initiative by itself. Additionally, Antiretroviral Therapy (ART) facilities were prayed for in the petition, as it is the only cure for the disease that could multiply and affect the immune system of the patient.

These petitions have received positive orders from the court and have been made accessible for all the states in the country, so that similar cases can be filed for the marginalised communities and relief sought in accordance.

### **2.5 Speaker: Advocate Anup, HRLN Jharkhand**

Advocate Anup, mentioned that since online facilities are not a comfortable or accessible option for many people in the State of Jharkhand, a petition to work offline was filed by the unit. This petition was taken positively by the court and the court passed an order in its favour. He further mentioned that women and girls affected by COVID-19 did not receive proper treatment in the quarantine centres in the state. Many infants died due to COVID-19 and lack of proper treatment. The unit has filed a PIL in this regard and the matter is pending at present.

### **2.6. Speaker: Advocate Ritu, HRLN Delhi**

On 23rd March, 2020, an initiative for the release of prisoners serving 7 years or more, was taken. She stated that the Commonwealth Human Rights Initiative (CHRI) was actively involved in the initiative.

There were several issues pertaining to the prisoners in the jails that had to be taken up. Ritu stated that the first initiative to help the prisoners maintain social distancing would require adequate kits for the inmates. These were unavailable in almost all of the jails in the country. She mentioned that upon building pressure, on 13th April 2020, the Attorney General insisted that the outdated policies and orders on prisoners should be modified and rectified to respond to the current situation and crisis.

Advocate. Ritu cited the example of Bihar unit and suggested that all the urgent matters should be followed in similar fashion. She mentioned the need for sending representations to the concerned department with a copy to the Registrar of the court while keeping a self-copy of the same and sending reminders to the authorities at regular intervals. She mentioned Arnish Kumar's judgement suggested that during the lockdown, arrests across the country should not

be arbitrary and police need to give in writing before arresting an individual. In most cases, the procedure was not followed.

Ritu mentioned that several cases were filed on Prisoners' Rights and suo motu petition orders by SC and guidelines on overcrowding in prisoners were won. She also spoke on the need for developing different networks across the country working on the same issue. She mentioned the problem faced during the actual hearing and the court's approach on hearing other lawyers over amicus cure in prisoners' rights cases. Case and order on transpiration of prisoners to their home after their release and their screening for symptoms of Covid-19 was an important aspect to be looked after, as suggested.

Additionally, she reported that the order by SC to apply release order on all detention orders and all protection homes as well as on the detention center and sentence was also reduced. Foreign prisoners were also included in the same order. Questions on real issues of overcrowding after the lockdown as well.

### **2.7. Speaker: Rachna Mudraboina, Activist, HRLN Telangana**

Rachana informed that initially activists in Telangana started lobbying with other groups, stakeholders for advocacy for Trans persons, during the lockdown. A letter was written to the Telangana Women's Commission and to the Telangana Transgenders Committee to help the transgender community. Soon after distribution of food was done with the help of other NGOs, CBOs in the region.

Rachana states that the Telangana government had released Rs. 500 to the migration labourers, workers in the informal sector, etc. Dry ration was provided to the transgenders community only because of the pressure built upon the authorities by the NGOs and CBOs. She also spoke about the importance of Annapurna Canteens in the state that provided free of cost food to the migrant workers stranded in the city.

Rachana coordinated with other HRLN units and ensured the filing of petitions demanding ration cards for Transpersons, as this was a major setback for the community to get access to food. She also mentioned the pressure built by the network in the region on house owners, to reduce the rent for Transpersons as their means of earnings was discontinued due to the lockdown. There was an additional demand made to the government, for allocation of separate wards for treatment of transpersons affected by the Covid 19 virus. She stated that most of the states had not followed the process of allocating separate beds and trans persons were often left to either male or female wards of the hospitals and quarantine centres, in the country. There was a demand to increase the ration that was distributed among Transpeople. The telangana government had only provided 1kg rice to the Transpersons, which was insufficient for them to live by for the extended period of the lockdown. She stated that adequate pressure was built on

the Andhra Pradesh government, simultaneously, to increase the home delivery of medicines for HIV and diabetic patients.

Rachana has been active in participating in the relief work in the state and has been able to pressurize the government into providing facilities to the Trans communities in Telangana, with the help of other stakeholders.

### **3. Concluding remarks - Advocate Gunjan Singh, HRLN, Delhi**

Gunjan pointed out some learning points from the interactive session among the units:

1. **Power of networking** - this is an essential feature which is interlinked to the extensive work of filing cases and continued relief work, all throughout the country. Networking has often helped in quickly identifying an issue and collating data to substantiate the argument and present it to the court. In the Swami Agnivesh matter, data was collated from all the states that facilitated the process of speedy filing and positive court order.
2. **Immediate response and action** - the process of being able to identify imminent problems in regions and quickly responding to the events by filing urgent petitions have been a remarkable experience that is shared among all states. He specifically mentions the case of filing a petition for burial grounds in Jharkhand and appreciates the responsive attitude of the Jharkhand unit into taking adequate measures in the time of crisis.
3. **Identification of issues and cause** - Gunjan mentions the strategic petitions filed in all states; matters on child rights, food security, functioning of mid-day meals, labour laws and issues of migrant workers have been essential in bringing forth due action and seeking relief from courts.
4. **Access to Justice** - He mentions the imminent problems faced by units in different matters due to connectivity or network issues as a hindrance to the access of justice in most cases. He specifies with the example of the Prison rights matter that got delayed due to connectivity as the judge's speaker and video were on mute and the HRLN lawyers not permitted to take part or spit forward their arguments.
5. **Regular contact with ground level activists and workers** - Another important aspect that cropped out of the discussion was that it is important to develop the habit of being connected to the front line workers in the field, who are the real persons faced with the adversaries and have the real picture of the ground, which is often subsided or misread by the media or the authorities, to their advantages. Connections help into better identification of issues and responsibility to prompt actions.
6. **Diminishing role of trade unions** - as pointed out by Nirmal, Gunjan states that it is a matter of concern that trade unions have been silent and inactive during the crisis of migrant workers. They have had no role into assisting the helpless workers or even acting as a pressure to the government, during the lockdown period.

7. ***Suppression of movements*** - As Advocate Siddharth had pointed out earlier into the conversation, it is important to note that the state has taken appropriate action into suppressing the voice of the people into demanding justice for different violations in the society. The police have been identified as an oppressor in the wake of the pandemic and the state of emergency in the country, as cases of police brutality have increased several folds.
8. ***Collaborative Work*** - To work as a team during a crisis is quite difficult at times, but the experience so far amongst HRLN colleagues. The productivity has been multifold in most cases.
9. ***Pressure Tactics*** - Rachana's method of building a network with stakeholders to pressurise the government into speedy action as well as Deepak's method of writing representation and follow up letters has been a new tactic that has evolved out of the crisis and been very helpful.
10. ***Lack of information*** - Presently it has been noted that there is no transparency in the system. Datas and schemes have been found nonfunctional and outdated. The idea implemented by the state that at the moment of crisis, questions need not be asked about the activity or policy of the government, but a gradual submission to their methods be relied upon, is incorrect and insufficient in the arena of human rights. There is need to be well connected with ground level workers so that the malfunctioning system can be highlighted and challenged.
11. ***Role of an activist and advocate*** - It is not important that we identify ourselves as only an 'activist' or an 'advocate', but rather diversify with the need of the hour, in favour of the practice of human rights.

## Annexure A

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