1 Introduction

Migration, work, and citizenship: COVID-19 and the faultlines of Indian democracy

*Kalpana Kannabiran, Asha Hans,
Manoranjan Mohanty, and Pushpendra*

With an exodus of workers never witnessed before in Indian history, COVID-19 has posed deep and grave challenges to our understanding of labour, migration, differentiated citizenship, dignity, security, vulnerability, and deliberative democracy. There are several questions related to basic dignity that arise in this context: Why were workers ousted from cities, throwing them into hunger, starvation, and homelessness at four hours' notice? Nearly half of those in the exodus were women and children. Even while we try to grapple with the human rights implications of those graphic visuals we were witness to for weeks on end, our questions are stacked along two tracks. The first and most obvious one is, of course, health – the range of concerns around the right to health generally, and policies for the containment and treatment of COVID-19-affected persons. The second set of questions pertain to our understanding of the intersections of caste, community, tribe, and class, each intersecting with gender in the reality unfolding before us. At a political moment that sees a stark rise in violence and dispossession against marginalised groups, and a rise in violence against women and non-cis persons, how did the pandemic-lockdown impact concerns of human security informed by gender?

In exploring the unfolding crisis and its long *duree* impact, we use 'pandemic-lockdown' as a hyphenated descriptor to denote the twin effects of the public health crisis and the forced displacement of the worker population as mutually reinforcing and inseparable from each other in any consideration of state action. In the pandemic, it is health which is fundamental to human experiences. As Sharpe suggests, the health status of populations can serve as an indicator of 'equality, trust and wellbeing' and to improve health 'we need to challenge the underlying injustices and social conditions' (Sharpe 2019: 335). As faultlines in Indian democracy emerged following the lockdown, described by many as brutal, it had all the makings of an

unprecedented humanitarian health crisis, with no state response as the preceding two decades of the austerities of the public health system produced an uneven infrastructure in rural and urban India. In its place, the privatisation of healthcare puts access out of reach of the majority, overburdening the already fragile public health system which collapsed without an accessible alternative in place.

The epidemiological approach, in the case of the pandemic, ought to address not only the ending of the coronavirus, but also the violence in domestic and public spaces where the dignity of the displaced worker has been eroded. Mann (1998: 37) argues that violations of dignity should be considered as a form of violence as these infringements ‘are pervasive events with potentially severe and sustained negative effects’, and future generations may look back at the current limited and narrow understanding of health and wonder how we could have missed seeing violations of dignity as sources of injury to well-being. The violence perpetrated against migrant workers resulted in their stigmatisation as ‘carriers of the virus’, depriving them of their dignity as human beings and as citizens.

Examining the intersecting vulnerabilities of migrant labour – social location, gender, and place of residence – brings out the nature and magnitude of the faultlines, and the interconnections between layers of urban and rural sectors in the Indian political economy as well as the role played by the Indian state. Firstly, during the COVID-19 pandemic, the health emergency was as challenging as the existential crisis facing labour, especially migrant labour – most evident in the states of Odisha, Jharkhand, Chhattisgarh, Bihar, and Uttar Pradesh, but also at the all-India level. Although estimates vary, from 10 million to over 40 million of inter-state migrants were facing livelihood, displacement, and health crises (Srivastava 2020). Secondly, every agricultural worker, marginal and small farmer, small artisan, and worker in a small enterprise is a potential migrant worker, forced to migrate when the rural economy is unable to ensure their livelihood. It is widely recognised that the crisis had already begun to unfold with globalisation particularly the agrarian crisis before the pandemic. This demographic transition for new livelihoods formed the backdrop of the migrant movement during the pandemic, which threw the migrant labour crisis into sharp focus. The third factor is the invisibilisation of the contribution of migrants workers to urbanscapes.

The abdication of state responsibility is reflected in the manner in which government circulars, such as those for home quarantine, did not take note of people’s socio-economic circumstances. Norms of ‘social distancing’ were insensitive to the fact that migrant workers lived in overcrowded, cramped dwellings, sharing a room or toilet with 10–20 others. Privacy emerged as a major concern with health information being collected on apps without

consent. The unregulated use of surveillance tools in the context of health threw democratic norms in peril. Nomani and Parveen (2020), carrying out a critical appraisal of the Indian public health legislation, argue that the constitutional obligation for the enactment of public health and emergency preparedness has not been discharged in the COVID-19 situations.

The pandemic is a moment that is both epidemiological as well as political. Tracking the uneven responses of states globally to the COVID-19 crisis, Ranabir Samaddar suggests that this is in fact an illustration of ‘a long-term failure of liberal democracies to sustain public health and life, weakened as they had become due to their commitment to neoliberal agenda and the demotion of public welfare in favour of privatisation,’ and more fundamentally points to the incapacity of these regimes to secure life, their task limited to ‘arbitrating death’ (Samaddar 2020: 5).

Upendra Baxi’s reflections on ‘exodus constitutionalism’ are pertinent. Underscoring the fact that we are speaking of constitutional and core human rights that must recognise the dignity of the human citizen, and that given the unpredictable and as yet unknown effects of COVID-19, all action by the state and judiciary must be tempered by ‘epistemic humility’ (Baxi 2020). He delineates four attributes of ‘exodus constitutionalism’ that acquire new meaning during the pandemic-lockdown: first, the reliance of constitutions on the ‘constitutional self’ and ‘constitutional other’ – the status of citizenship as set out in Part II of the constitution is a sovereign decision of the state, not a fundamental right. Second, how then do shifts in the construction of citizenship inflect our understanding of the constituents of the exodus? Third, the heightened vulnerabilities of populations affected by the pandemic-lockdown are not adequately captured by terms like ‘COVID-19 migrants’. And finally, ‘exodus constitutionalism’ hinges on the devaluation of citizenship – as we see, for instance, with those forcibly displaced by the pandemic-lockdown. This is the new face of Internally Displaced Persons and must be thought through on those terms (Baxi 2020).

This takes us directly into a consideration of vulnerabilities and social disadvantage. Drawing on nationally representative panel data for 21,799 individuals between May 2018 and April 2020, Ashwini Deshpande and Rajesh Ramachandran find that although the sudden loss of employment hit people across social groups, the vulnerable groups – OBCs, SCs, and STs – suffered significantly more than the upper castes, with the gap between Dalits and upper castes being the highest. They suggest that this may be viewed against the fact of the higher presence of Dalits among the precariat and their overall lower levels of education. The heightening of pre-existing vulnerabilities and inequalities owing to social disadvantages and systemic discrimination against Dalit and Adivasi communities, by their argument, is likely to be exacerbated by the pandemic (Deshpande and Ramachandran

2020). The survey conducted by the Centre for Equity Studies (2020) found that although job loss was pervasive across social locations, the situation of daily wage earners and inter-state migrant workers and Muslim workers was more precarious. Consistent with several other studies conducted across the country, the precarity of labour and insecure conditions of work over a long term made it impossible for workers to withstand the shock of the lockdown – and this was true across rural and urban locales.

While the government announced stimulus packages, questions were raised by development economists such as Jean Dreze (2020) on the basis of their longstanding work on the labouring poor and rights in the informal sector regarding the veracity of these claims.

Gender intersections are critical to an understanding of how the pandemic-lockdown spreads its shroud unevenly across sharply heteronormative spaces – public and private. While it is widely agreed that the informal sector is constituted by the largest section of the Indian workforce that is also predominantly female, the image of the male worker as the norm invisibilises the range of specifically gendered vulnerabilities that confront women and non-cis persons in the informal economy. These could take many forms, from wage discrepancies to specific stigmatising practices to vulnerability to routine sexual violence. Given the disproportionate responsibility of reproductive labour on women (what has rather simplistically been termed the ‘double burden’ in literature historically), how does this mass displacement affect them disproportionately? What are the specific ways in which the pandemic-lockdown exacerbated insecurity on gender lines? Finally, there is the question of domestic violence. The gendering of pandemic vulnerabilities has been shrouded in the discourse around the ‘shadow pandemic’. In a larger context of structural violence and systemic discrimination, the pandemic reinforces stratification, especially in relation to the gendered division of labour – in worksites and within the family. The rise in incidents of domestic violence during the lockdown across the world evoked a comment from Phumzile Mlambo-Ngcuka, Director of UN Women, that there is a shadow pandemic unfolding which locks women and girls into abusive homes (Mlambo-Ngcuka, 2020).

Further, the gendered implications of the pandemic are not restricted to this single issue. Sex work, workplace rights, surveillance, moral policing, extreme vulnerability to sexual violence, and the larger question of ‘reproductive justice’ come into sharp focus in a pandemic-lockdown situation (Kannabiran 2020).

Violence has been a daily occurrence during the lockdown, heightened by the presence of armed or police forces. Brutality during the lockdown became part of the ethos of a perverse deterrent practised to maintain ‘law and order’. The abuse and intimidation targeted groups of people such as

migrants, doctors, nurses, frontline workers, and religious communities. Communalisation of COVID-19 has unravelled the injustices and inequities that underpin people's lives. While some states have emphasised the importance of not stigmatising communities on the basis of religion, other states have used this pandemic to aggravate prejudice based on religious identity and vigilantism acting in concert with non-state actors. 'Any attempt to shift accountability of a pandemic of this magnitude to a congregation of persons is deplorable and also counter-productive to public health efforts' (Jan Swasthya Abhiyan and All India Peoples Science Network 2020).

The construction of violence is also by other means such as a language which contributes to a violent situation. Although women frontline workers, nurses, and others involved in taking care of the coronavirus have been designated as 'Corona Warriors', being instrumental in the 'war' against the coronavirus,¹ unfortunately these warriors have been both underpaid and unprotected without the shields necessary when going into so-called 'war zones' created by the virus. It has to be recognised that the use of violent vocabulary militarises the public mindset, and violence becomes the public normal. It is time to recognise that this system of violence will become entrenched, so it must be challenged as the well-being of the human family depends on its removal.

The chapters in this volume attempt to explore fresh contestations around the emerging nature of risk, new terminologies, unimaginable human rights abuses taking place against migrant labour, and the long walk home filled with tragedies. By revisiting work on labour control regimes through the COVID-19 lens, exploring new insights on mobility and new understandings of the migrant body, we hope to initiate a discourse on justice in a larger context of hostile migration environments, exploring constitutional routes, with a focus on vulnerability.

To build on this backdrop, we would need to think through a new method and epistemology that draws attention to democratic and constitutional accountability. It is time to start the pedagogic imagining and structuring of a future world that will open up to new possibilities. The questions before us are: what is normal and just, and how do we protect our fundamental rights when these rights are trampled on? In this context, questions we should be then asking are: what is the appropriate language to create a new alternative? How do we work in collaborative ways? We also need to ask: how do we stop this violence from becoming the 'new normal' in our lives? Are we prepared to re-imagine new worlds where security is dependent not on force but recognition of an interdependent world of collaboration? It is imperative to introduce different methods of development and a new alternative to the 'new normal'. Would this mean creating fundamental changes in our understanding of words such as 'poverty'? This new manifestation is the shift

that strikes at the very core of our social structure calling for a reconceptualisation of the vocabulary of change? We recognise that the pandemic has essentially affected our lives and our humanity and is the catalyst we hope for a new equal and just global system.

What lessons can we draw from the migrant workers crisis and through that window about India's political economy? *Manoranjan Mohanty* identifies some specific lessons that cannot be missed by close observers: the paucity of data, the absence of a support system for workers, non-implementation of labour protections, disabling of panchayats – all leading to a cumulative vulnerability of migrant workers. He argues for a new politics of workers challenging the fundamental premises underlying the prevailing political economy that can effectively address the issue of the vulnerabilities that we saw during the pandemic-lockdown.

Nasreen Chowdhory and *Shamna Poyil* focus on the precarity of migrant labour during times of COVID-19 and make a case for 'pandemic citizenship'. To citizen-migrants for whom mobile livelihoods are indispensable to the right to life – Article 21 – Chowdhory and Poyil argue that what appears to be a uniform restriction on mobility is in fact a measure of the disproportionate effect of 'pandemic citizenship' that divests citizen-migrants of any choice and constitutes the use of undue force by the state.

While Part III – the Fundamental Rights chapter – of the Constitution of India is justiciable and strengthens the claim of citizens vis-à-vis the state, *Kalpana Kannabiran* and *Sreekar Aechuri* unravel the faultlines in COVID-19 jurisprudence, by pointing to the uneven application of established constitutional principles across different clusters of cases. What throws the faultlines of constitutional jurisprudence into sharp relief, in their view, is also the hyper-visible class biases in the jurisprudence on the citizens ousted by the pandemic-lockdown.

Indu Agnihotri and *Asha Hans* explore the gendered specificities of the pandemic and the need to rethink questions of 'gendered vulnerabilities' in relation to work, social security, and health. They draw on evidence gathered during the pandemic to examine how the everyday life of migrant women was affected by the lockdown and suggest a new paradigm of analyses from the lens of human security.

Irudaya Rajan, *Renjini Rajagopalan*, and *P. Sivakumar* foreground the political disenfranchisement of migrants and their invisibilisation by state governments. Examining data of migrant workers, they suggest that portability of political rights and social welfare, although contentious and difficult to implement, might hold the key to the realisation of full citizenship for migrant workers and the elimination of the vulnerabilities they face.

Kerala has been celebrated as inaugurating a new grammar of governance during COVID-19. *Praveena Kodoth* argues that the visibility

conferred by the state of Kerala on migrant workers, while it confers a benevolence on inter-state workers, constructs them as ‘guests’ and ‘outsiders’; in a simultaneous move, non-resident Keralites are conferred the privilege of ‘belonging’.

S. Anandhi and *E. Deepa* examine the issues faced by domestic workers – a 1.8-million-strong female informal workforce in Tamil Nadu – during the lockdown through a field study in Chennai city. They work as part of a ‘dually informalised workforce’ in the informal private-domestic sphere with no access to basic labour and social security protections. The chapter attempts to understand how their specific vulnerabilities were exacerbated by the lockdown.

Pushpendra and *Manish K. Jha* explain the journeys taken by migrants as the defining image of pandemic COVID-19. Using the theory of labour control regime they demonstrate how the state adopts the policy of intervention by facilitating as well as restricting journeys of migrants. Drawing from the narratives of workers’ struggle for the journey, the chapter explicates the dynamic relationship between state, market, and migrants in times of crisis and emergency due to the pandemic.

Note

- 1 COVID-19: The New Normal: Militarization and Women’s New Agenda in India - Global Campaign for Peace Education (peace-ed-campaign.org) accessed on 29.12.2020.

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