



~~Better Laws and Governments in times of Crises~~
Good laws are necessary in times of crisis, or even otherwise. The poor management by state and central authorities of the COVID-19 pandemic lays bare the legal and infrastructural unpreparedness in India. As if the threat of the disease was not enough, the country-wide lockdown created more problems regarding the welfare of the countless million laborers in the casual and informal sectors. There exist no laws, and no new ones were made that protect such laborers in times of crises. Consequently, the government's policies in tackling COVID-19 essentially lacks a strong legal basis.

For instance, on the question of the wages of workers in various industries during lockdown, the directive to pay the employee has not worked because the period has no legal base. A few business organizations in Goa, in a letter (19 April 2020) to the Chief Minister, questioned the legality of asking private companies to pay wages to their employees. This letter reported in the press, and circulating online, was made by Confederation of Indian Industry (CII), Goa Chamber of Commerce and Industry (GCCCI), Goa Hotel & Restaurant Association (GH&RA), Goa State Industries Association (GSIA), Goa Technology Association (GTA), Travel & Tourism Association of Goa (TTAG) and Verna Industries Association (VIA). Lawyers are also debating the same question over the interpretation of the laws, a question that the courts will have to settle.

The letter claims that both the Epidemic Disease Act, 1897, and the Disaster Management Act, 2005, imposed following the outbreak of the pandemic in India, does not empower the State to force private companies to bear the burden of a health crisis or disaster. Instead, the letter claimed that the onus of providing for lockdown employees, be it "permanent" or "contractual workmen," and "inter-state migrants" lies firmly with the State. The letter argues, "If for any reason the government decides to extend the lockdown [further than May 3], it should bear the wage burden and should not give any advisory for payment of full wages given it lacks the authority to do so." Clearly, the workers are left in the lurch.

The imposition of the Epidemic Disease Act, 1897, has also divided public opinion. In addition to the fact that this Act failed to enforce norms of social distancing, some argue that it had several legal loopholes, apart from being archaic. These naysayers are proven right. We can see it in the joint representation by Goan business associations or in the fact that the original Epidemic Disease Act lists only ships and ports as areas of inspection, whereas COVID-19 spread largely through air travelers.

If history teaches us anything, it is that governments need to do more than enough to tide over the crises. As far as making useful laws, the government of India is not rising to the challenge. True, the President issued a recent ordinance making it punishable to harm

healthcare professionals in times of an epidemic. This ordinance that lays down in such minute detail the kinds of punishment for such a violation has no place for providing adequate healthcare facilities, for patients as well as doctors.

We know that, like in many other places, healthcare professionals and facilities are facing a severe shortage of essentials, such as testing kits and Personal Protective Equipment (PPE). But the government does not see it fit to make a legal provision to guarantee the health and safety of the citizens of India. Nor did it see fit to make a law to protect workers over their jobs and salaries due to an unprecedented lockdown. At least, the ordinance could have added a clause for enforcing 'social distancing.'

The transportation of the royalty-paid ore that resumed in May, on the order of the Supreme Court, in times of the lockdown is further proof of a law and order problem in Goa. The trucks on the route from Cavrem to Curchorem has made a mockery of the 'social distancing' norms supposedly enforced in Goa. If the government and the mining companies are unwilling to act lawfully (by respecting the lockdown norms), at least they could have delayed the transportation until the COVID-19 situation is no longer a threat to the life and health of the people of Goa.

The Goa government's refusal to intervene, and thereby maintain at least some semblance of the existence of the rule of law, in the iron ore transportation issue, is, in the words of Claude Alvares, one of the activists against illegal mining, "sheer hypocrisy." Alvares further observes "COVID-19, the State government should be reminded, is a respiratory illness. By what yardstick is an activity that is closely associated with respiratory illness[es] being allowed in the hot summer on State's roads, with COVID-19 lurking around every corner?"

As seen in the Goan case, the state's legal basis for enforcing norms during COVID-19 leaves much to be desired. One reason the government has not been able to reduce the chaos following COVID-19, in fact, has added to it, is because it has not made laws that are relevant to our unprecedented time. The existing laws that the government is using are also inadequate. Thus, the refrain of our times, as in all times, has to be that we need both proactive laws and governments that will be responsive and sensitive to the realities of the socially and economically marginalized sections of society.

(First published in *O Heraldo*, dt: 6 May, 2020)



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