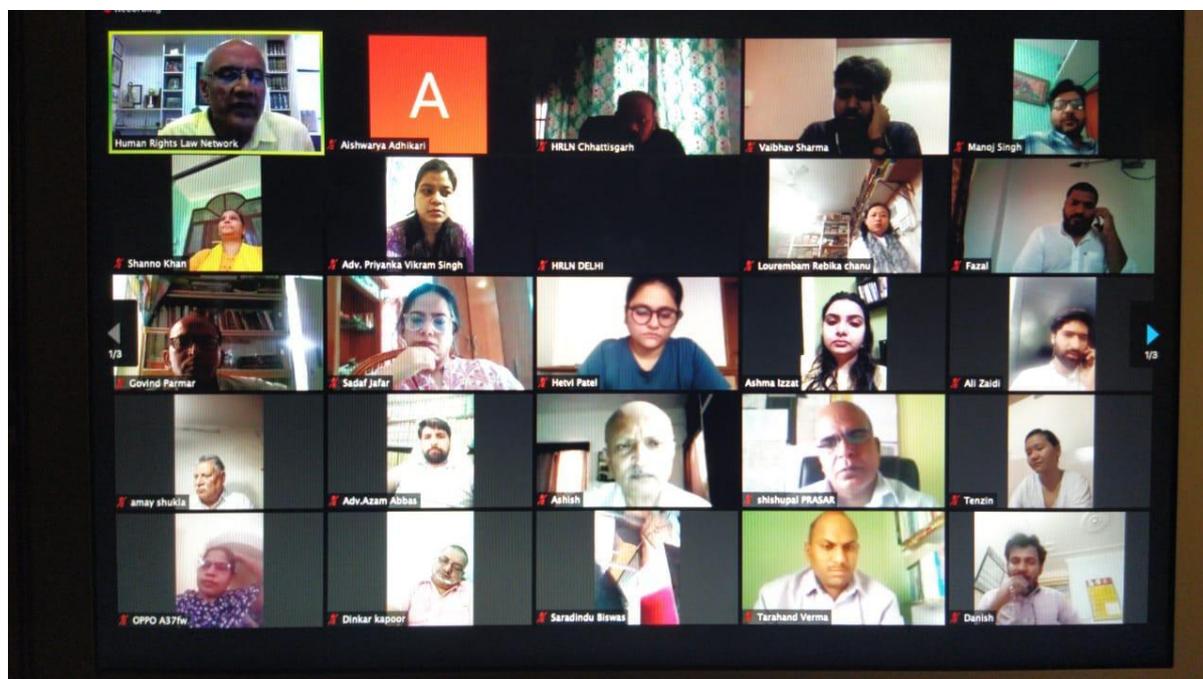


UTTAR PRADESH STATE LEVEL MEETING

Written by Ali Qanbar Zaidi



ON
FAKE ENCOUNTERS
REPRESSION OF PROTESTORS
PLIGHT OF MIGRANT WORKERS
ATTEMPT TO DILUTE LABOUR LAWS
AGRICULTURAL CRISIS DURING LOCKDOWN

27.05.2020

Via Zoom



Labour Rights Initiatives

BACKGROUND

Perhaps, it happened for the first time in modern history where the entire world came to a standstill. The outbreak of coronavirus disease compelled nations to adopt unprecedented measures consequently resulting in unprecedented results. India, a home of over a billion people- nearly two third of whom live in poverty- witnessed one of the most stringent lockdowns which was initially ordered for 21 days but went on to extend for almost two months. The abrupt and unplanned imposition jolted millions of migrant workers, street vendors, daily wagers, domestic workers and small farmers who were only given 4 hours to make arrangements for their survival during the lockdown period. Cities like Mumbai, Delhi, Chennai, Bangalore, Ahmedabad etc. witnessed waves of migrant workers returning to their home states in one of the biggest mass movement since partition.

Incidents of police atrocities under the pretext of enforcing lockdown and insensitive and degrading treatment of migrants by the public authorities were widely reported. Various state governments attempted to dilute key labour laws in the name of reviving the economy. The lockdown also crippled the system of administration of justice in India; the Constitutional Courts were either shut down or their functioning was reduced to bare minimum. Above all limited accessibility to the poor and needy had become the biggest problem faced by right based organizations. Under such circumstances it was important to begin the collective conversation around emergent issues and formulate new strategies.

Human Rights Law Network, through webinars organized a number of meetings and trainings on diverse issues. Fifth in series of such webinars, the present meeting was organized by HRLN Uttar Pradesh on 27th of May 2020. The purpose of this meeting was to identify, discuss and deliberate the core issues prevalent in the state of UP and to plan future course of action to deal with them. The topics for the meeting were repression of protestors in UP, fake encounters, agricultural lockdown and its effects, aid to migrant workers, attempt to dilute labour laws in UP and prisoner's rights. A panel consisting of prominent activists, lawyers, researchers and journalists was invited to address the meeting. The meeting was attended by lawyers, social activists and students from across the state.

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THE AGENDA

Time	Session	Speaker
9:20-9:35	Welcome Note	Sr. Adv. Colin Gonsalves
9:35-10:35	Repression of protestors in UP	<p>Sadaf Jafar (Activist Jailed during CAA protest)</p> <p>Vishnu Shukla (Human Right Activist)</p> <p>Fawaz Shaheen (Quill Foundation, Conducted a detailed study on repression of protestors)</p> <p>Salman Imtiyaz (AMU Student Leader)</p>
10:40-11:10	Fake Encounters	<p>Akram Chaudhary (Social Activist, Afkar Foundation India)</p> <p>Rajiv Yadav (Rihai Manch)</p>
11:15-11:45	Agricultural lockdown and its effects	<p>Dr. Ashish Mital (GS, All India Kisan Mazdoor Sabha)</p> <p>Kuldeep Baudh (Dalit leader and Human Rights Activist)</p>
11:50-12:20	Aid to migrant workers	<p>Manoj Singh (Journalist and Activist)</p> <p>Vaibhav Sharma (Child Rights activist)</p>
12:25-01:10	<p>Attempt to dilute labour laws in UP Notification increasing working hours for factory workers: Dinkar Kapoor Proposed suspension of key labour laws in UP: Gunjan Future of distressed migrants amid</p>	<p>Dinkar Kapoor (Convener, Workers' Front)</p> <p>Gunjan Singh (Advocate, HRLN Delhi)</p> <p>Nirmal Gorana (Convener, NCCEBL)</p>

	weak labour laws: Nirmal	
01:15-01:45	Prisoners Rights	Tapan Vahal (Works on Prisoner's Rights, Research Scholar) Ashma Izzat (Advocate, provides legal aid to prisoners mostly women)
01:45-02:00	Possible PILs	Danish + Fazal + Ali

5 Mins for questions after every session

1. THE WELCOME NOTE

The meeting started with a brief note by the founder of Human Rights Law Network, Mr. Colin Gonsalves, Senior Advocate, Supreme Court of India. At the outset Mr. Gonsalves expressed his concern about the rising cases of Human Rights violations in UP and desired for a strong network of advocates and activists in Uttar Pradesh. He further pointed out recent attempts of the state government to dilute welfare provisions of the existing labour laws. He expected drastic changes in the labour laws in UP. Referring to the AMU violence and subsequent petitions filed by HRLN Mr. Gonsalves said that even though the Hon'ble High Court directed for NHRC enquiry but the inquiry report has tried to shield the police and other paramilitary forces. On fake encounters Mr. Gonsalves said that for every case it is required to assign one advocate for each encounter case to assist the victim families and file cases in the High Court. Mr. Gonsalves further stressed on the issue of communalism and appealed that lawyer should come forward and oppose such incidents. On the atrocities and repression of peaceful protesters he said that cases filed by HRLN shall be pursued with full vigor post lockdown. Speaking upon the issues of agricultural crisis and migrant workers he raised his apprehension that starvation death will be a major problem by December in case the government does not take timely measures. He also expressed his disappointment with the delayed response of the Supreme Court and said situation would have been much better had the Supreme Court acted on time. On prisoners' rights he cited the 2016 judgment by Justice Lokur wherein it was directed that in order to lessen the burden of overcrowded jails it was necessary to release sick, old and prisoners convicted for offences punishable with less than 7 years of punishment. Lastly, he said there is too much suffering in the state of UP and a lot much is required to be done in UP by enforcing human rights.

2. THE FIRST SESSION: REPRESSION OF PEACEFUL PROTESTORS IN UTTAR PRADESH

SADAF JAFAR

(ACTIVIST BEATEN, TORTURED AND JAILED DURING THE PROTEST IN LUCKNOW)

Sadaf, after appreciating the kind of work HRLN does narrated the chain of events which she witnessed during the protest on 19th December at Lucknow. As per Sadaf, on December 19 when the violence took place in Lucknow, she was exposing the inaction of the police through a Facebook Live video. In the meanwhile certain policemen stopped her and her phone was snatched. She was beaten with lathis and rifles. In the words of Sadaf- "I was taken to Mahila Thana in Hazratganj from the protest site. At night, I could hear the cries from the room where male detainees were kept. Every time, the policemen passed by, they would ask my name and call me a 'Pakistani'. They kept abusing me and said that "I eat here, but loyalties are there." It was horrible. They always addressed me as '*tum log*'. More than the thrashing, it was the word '*tum log*' that pained me. I come from a family of freedom fighters. At the police station, one female constable pulled my hair, slapped me and scratched my face. None of the police officers, from constable to seniors, wore badges on their uniform.

I thought that I was detained and my family or friends would soon come to rescue me. But by 8 pm, I started panicking and asked the police for my phone. Though I repeatedly asked them to inform my family, they didn't.

At 11 pm, a female constable took me to an officer's room who, she said, is the Inspector General of Police. Even before entering the room, he started abusing me. He said, "Why are you doing all this, even when the government is doing so much for you?"

Then he asked the female constable to put me in jail under section 307. He asked her to slap me. Then he got up and pulled my hair, kicked me in my stomach and knee. I knew then that my nightmare had begun. I was feeling very sick, shaken and abused.

When I felt uneasy, I requested for immediate medical attention. I wasn't even given water till then. They took me to a civil hospital, though the doctors didn't attend to my wounds inflicted by the beating. The same night, I started bleeding. My pants were blood-soaked, and they didn't even give me sanitary napkins. I was scared to even ask for water because I felt that I

would be beaten up again. I found out later that the male cop was not the IG, but a senior officer.

She says that the ordeal has taken fear out of her. She said that she will continue to fight till the end. We are trying to help people in jail. They can't misguide people for long because CAA is an inhuman law. The silver lining is that my arrest and the outrage that took place was a slap on the communal slur and communal agenda of the police and the government.

2.2. VISHNU SHUKLA **(HUMAN RIGHTS ACTIVIST)**

Mr. Shukla started with speaking about the anti CAA protests in Kanpur and subsequent police atrocities. He informed that a total of 17 FIRs were registered booking around 21500 unnamed people which had given an undue advantage to the police to call and threaten anyone they wish to. The objective was to harass the activist and refrain them from organizing protests. Restraining orders and challans were issued against even those activists who were not even participating in any kind of protests. Huge sum of surety was demanded from common citizens for keeping peace. Innocent people were threatened to divulge the details of those involved in the protests or to face dire consequences. Not even women were spared; they were arrested though they never indulged in any violent activity. The role of district judiciary was also questionable; the release of prisoners was delayed even after obtaining bail orders from the High Court.

He further revealed that activists like him and Najam who is also lawyer was regularly called at the police station and made to sit for hours and their phones were taken away. They were even threatened with imposition of National Security Act. It is necessary that all the unnamed accused be deleted from the FIRs and specific people should be identified for the purpose of investigation. He apprehended a big crackdown will follow once the lockdown is lifted. Therefore, it is required that people should be motivated and assured that there is a team of lawyers to protect their rights and civil liberties and they should not stop from raising their rightful dissent in a peaceful manner.

2.3. FAWAZ SHAHEEN

(RESEARCHER, QUILL FOUNDATION)

Fawaz highlighted the importance of data before discussing the police violence. According to him nationwide protest started in December 2019 itself when the Citizenship Amendment Bill was passed by the lower house of the Parliament. In UP also protests were reported as early from 9- December. According to official police data 23 people died and 83 people were injured between 12-23 December.

Twitter handles of high rank officials including the DGP were disseminating information in such a manner as if some large scale revolt or some planned conspiracy was going on and to control which the police had to use brute force. Fawaz further said that though the protests and demonstrations were spontaneous in most of the cities but a false narrative was imposed by the administration on such protests. To understand the pattern of police violence the incident of Jamia Millia Islamia and Aligarh Muslim University has to be observed. Same pattern of violence was adopted by the police in every city of UP by firstly not allowing gathering of large number of people, using baton charge and tear gas to disperse the crowd and in some cities to use live firearms, acts of targeted vandalism of Muslim houses and properties and arresting people by raiding their homes at night. In fact none of the arrests was made 'during' the protests.

Fawaz then proceeded to highlight the main issues arising out of such incidents. According to him the main questions involved were- whether the protesters had the right to come out and protest? If protestors were resorting to violence, what was the permissible extent of force to be used by the police? Whether the random arrests were justified? Whether internet ban was justified? These questions circumscribing the right to freedom of association and expression will be a challenge for human rights lawyers.

He then went on to answer the above questions. People were well within their rights to protest and demonstrate. However, the police portrayed as if all such protests were illegal per se and in violation of S. 144 Cr.P.C. In Ramlila Maidan Case, the Supreme Court set detailed guidelines with respect to protests. Also, the requirements of S. 144 were not met. Assuming that there was no such permissions and crowd resorted to violence even then there is standard operating procedure of the UP Police which requires that first a verbal warning shall be given, water

canon shall be used, teargas or baton charge will be resorted to and in extreme situation areal firing can be done. Importantly, under no circumstance live fire can be used on the protestors. Thus, police violence was in contradiction of both the Supreme Court judgment and the own standard operating procedure of the police. Regarding the gag on internet he he mentioned about Anuradha Bhasin case which lays down that any order to ban internet should be a published order in writing and repetitive orders is an abuse of power by the police. But in UP this order was repetitively violated. Lastly, on the issue of damage to public property he said that there exists a set procedure wherein opportunity of being heard has to be given by the executive magistrate before proceeding to recover any damages. The purpose was to threaten and give a message to the community at large. Putting up hoardings of the protestors was an absolutely intimidating tactic adopted by the UP administration. Concluding his segment Fawaz emphasized that we have to get ourselves ready for procedural battles at every level to ensure freedom of expression and assembly.

2.4. SALMAN IMTIYAZ

(FORMER PRESIDENT, ALIGARH MUSLIM UNIVERSITY)

Salman started his session by adding to the discussion by Fawaz regarding S. 144. He told about the incident of AMU where on the premise of containing the violation of S.144 the police imposed serious charges against the students even when they were protesting within the university campus. The action of the police was selective as other right wing groups who indulged in road blocking, violence and arson were not booked at all. An element of bias can be manifestly seen against the Muslim minority. He further told that discussions and debates were being conducted and eminent persons were called to address the students. He also mentioned about Dr. Kafeel and told that his speech was deliberately manipulated in such a manner as if his words contained some anti-national sentiments or he was inciting students. He went ahead telling that around 15-20 thousand students participated in a peaceful rally and there was not even a single case of violence. However, whenever any such protest was organized a new FIR was lodged against the students, both named and unnamed. FIRs were registered against 6000 out of around 32000 students.

Regarding the incident of 15 December, Salman said that the police first attacked the students brutally and later it was projected by them that it were the students who had first broken the

main gate of AMU and then indulged in violence. He revealed that two different videos were merged to create a concocted narrative in order to implicate the students.

Salman disclosed that stun grenades which are used in war zones were used on the students, let alone teargas and baton charge. These grenades and tear gas were used in a rapid fashion. As a result students suffered major injuries including a blown up hand and severed fingers. Police did not stop here rather they barged into the hostel, beat up the guards, set rooms on fire, passed slurs and derogatory comments. Salman went ahead to express his anguish and said that he used to believe that we had our constitutional rights and were living in a democratic setup but the latest incidents has shook his belief and now he is compelled to believe that one is living under dictatorship. He emphasized on the circumstances under which these protests were organized. Questions were being asked to minorities to prove their loyalty and there was an existential crisis among them. What would have students done if they had not protested? The movement also garnered support from the people at large.

However the role of University was very disappointing. The university permitted the police within the campus in violation of all the laws. The environment was so repressive that an FIR was lodged against 1000 people just for lighting candles and raising slogans against the CAA. In a shocking incident the rapid action force lodged FIR against 10000 students and later on upon realizing their over adventurism they submitted before the court that one '0' was mistakenly added. Salman added that it is question to ponder that why all this is happening? The opposition has also failed miserably and that is why students had to come out... the youth had to come out for the protest.

Lastly Salman thanked HRLN for extending support by filing petitions and conducting fact findings. He stressed on formation of a collaborative front including media. His much emphasis was on media as according to him the paid media played the crucial role in scandalizing the rightful process and in demonizing innocent students. It did not even bother about the case being pending before the court of law and instead ran a false narrative. Therefore it was essential to have impartial media on your side.

At this juncture Advocate **Aman Khan** from HRLN who also happens to be a petitioner in AMU violence case was requested to speak about the AMU incident in light of existing laws. Aman explained that whenever any law or policy is introduced by the government it actively defends such act or policy with a coordinated plan of action to curb any opposition. The administration is directed in advance to get them prepared for any and every protests and demonstrations.

The modus- operandi in such cases is to surround the opposition from all fronts. Protests are curbed with systematic mechanism by lodging FIRs, beating the protestors, not taking up the FIRs from the victim, serving notice under the procedural laws and putting up large posters etc. This entire web is to instill fear and break the courage of the protestors. Under such circumstance it becomes the responsibility of the network to assist and motivate the oppressed citizens. The method would require reach out strategy and deliberations on the issues and to create awareness about the constitutional rights.

3. THE SECOND SESSION: FAKE ENCOUNTERS

AKRAM AKHTAR CHAUDHARY

(SOCIAL ACTIVIST AND FOUNDER, AFKAR INDIA FOUNDATION)

Akram spoke about the rising police encounters in Uttar Pradesh. According to Akram extra judicial killing is the most dangerous form of use of excessive force by the police. Encounter killings were dominant in countries like Brazil and Philippines but in India it came much later. Encounters were carried out in Maharashtra but in the recent past have grown in Uttar Pradesh as well. After the formation of new government in Uttar Pradesh in March 2017 the government tested the reaction of community by ordering such encounters. Petty criminals and accused were either killed or shot and in a short period around 6000 shootouts were reported in which around 2500 people got injured and 120 died. It is the state rather than the police which manages these encounters in the name of crime control, he added.

He then emphasize upon the pattern in such encounters. Most of these extra judicial killings follow a similar pattern. The police receive a tip off from informers, following which the police tries to apprehend them but in order to escape they start firing back and the police retaliates in self- defence injuring the assailant(s). He is then taken to a hospital where he succumbs to his injury. The other assailant(s) however manage to escape. Further it is worth wondering how these accomplices manage to escape despite heavy police presence which also includes special task forces in some cases. Also important to note is that during the cross firing the police always suffers minimal injury or are saved due to their bullet proof jackets and the details of the injury are most of the times not recorded. Also the weapons used by the police are not sent for investigation.

He then added that the guidelines laid down by the Supreme Court are never followed in such cases. The FIR which is lodged talks about the incident rather than being the complaint of the victim or on behalf of the deceased. The police justifies their action on the basis of self-defence. In reality however self-defence has nothing to do with most of the encounters and many of such incidents are calculated ones. Self-defence and retaliation are clearly distinguishable. In most of the cases trials do not happen. When we conducted a fact finding report and concluded that in many cases closure reports were filed by the police without properly investigating, the police stopped filing such closure reports.

He further said that initially the guidelines laid down in PUCL case were not at all followed for initial few years but after complaining to NHRC and District Courts some guidelines are now shown to be followed. Even the lower courts are hesitant in directing registration of FIRs as they do not have much clarity on implementation of the above guidelines.

Talking about the victims of such encounters he added that most of the deceased belonged to the minorities. Around 50 out of 120 killings were those of Muslim and they comprise 70% of those injured.

Concluding his session he highlighted that the victim families are constantly threatened and intimidated. He illustrated a family's example that was following up an encounter case but was compelled to withdraw their complaint as false rape cases were registered on other members of the family. He also told that not only the family but also the activists working on encounter cases are regularly followed and put up on surveillance.

3.1. RAJIV YADAV

(SOCIAL ACTIVIST AND FOUNDING MEMBER, RIHAI MANCH)

Rajiv focused his discussion on situation prevalent in eastern Uttar Pradesh. He said that it is important to understand both encounter and encounter politics.

Different governments use encounter to serve different purposes. Secondly, the mounting number of encounters suddenly stops right at the time when the CAA protests start. And it is not only these protests but whenever any such incidents of national importance happen be it the Babri masjid verdict or S. 370 verdict suddenly encounters come to halt. This signifies that it is not the crime which compels the police to carry out encounters rather the political directions by the state.

There is a slight difference between the cases of eastern UP and Western UP. Those killed in eastern UP encounters had some political connection or associated with parties striving for social justice. Encounters are not new in UP but recent trend has even failed the Gujarat model. It is a part of aggressive politics of this government and has set standards to deal with political rivals.

Another aspect which is less discussed is the imposition of Goonda Act and the Gangster Act. Either on the accusation of cattle smuggling or some other pretext stringent provisions of such acts are imposed on the accused person which at a later stage becomes a ground for encounter killing. Therefore we need to seriously discuss the arbitrary imposition of the provision of these acts and the possible consequences.

Another example of political interference can be derived from the violence during the anti CAA protest which incidentally happened only in select districts. In these districts either the top police officers are known to be of a particular mindset or the government had direct involvement. Rajiv further added that apart from encounters the politics of vengeance can also be seen in crushing of peaceful protests and it seems that the politics of revenge is directed towards a particular community. This belief is further strengthened by the fact that 53% of those killed in the encounters belong to the Muslim community; the rest being OBCs and Dalits. Even in slapping of NSA charges the administration appears to be extremely biased and selective.

Rajiv said that we should resolve to fight this politics and strive that perpetrators of such encounters are punished.

4. THE THIRD SESSION: AGRICULTURAL LOCKDOWN AND ITS EFFECT

4.1. DR. ASHISH MITTAL

(GENERAL SECRETARY, ALL INDIA KISAN MAZDOOR SABHA)

Dr Mittal started with some initial comments on the effect of Corona lockdown on agricultural activities. He highlighted that even in the 2008 global recession India was able to remain less affected because of being agricultural based economy. Even today the possibility of improvement of Indian economy can be seen from agricultural point of view as the rise in demand would strengthen the internal market of the country.

Farmers of India have played the role of food warriors. He stressed that people were required to be motivated and encouraged rather they have been made frightened which has damaged the economy to a greater extent. At the time when the lockdown was declared the crop was ready to be harvested which got delayed. Difficulties were faced in transporting wheat, sugarcane, vegetables, fruits and animal fodder. Wholesale markets (Mandi), porters and rural industries were greatly affected. The lockdown also affected the procurement of agricultural tools and repair shops were also closed. Second thing which got affected was the sale; be it of vegetables, fruits, milk, meat or poultry products and large scale damage was suffered by farmers. Price difference should be paid to farmers particularly to the dairy owners.

Third important issue was non-payment of minimum support price. Remaining dues to the sugarcane farmers was not paid. The C2 formulas recommended by the Swaminathan Committee should have been implemented while making payments to the farmers which was not done by the government.

Fourth problem was the hail storm which occurred in February. Farmers couldn't get the opportunity to visit their land in order to save their harvest. The compensation declared by the government was also meagre.

Fifth issue was with respect to 5 kg ration declared by the government which was only provided to either ration card holders or the job card holders. Large numbers of villagers do not carry such cards. This is and has been a big problem in the distribution of ration. Basic human requirement for ration is 15 kilograms per month. Even ICMR recommends 14.7 kilograms per months. Therefore, the demand was made by the farmers' organizations that 15 kg wheat, 1 kg

pulses, 1kg sugar and 1 litre oil should be provided to each individual. There should be no limitation of cards while distributing such ration. Milk and egg should also be provided separately for children. As on 1st March 775 lakh ton food grain was available in government reserve which would have lasted for 5-6 months even if 15 kg of it was distributed to each family. But the government did not do the same.

Sixth problem which was faced was non availability of jobs under MNREGA. It was required to pay daily wages to MNREGA card holders. The seventh problem relates to the insufficient amount paid through PM-KISAN Yojana. It should be raised from existing 500 rupees per month at least 18000 rupees per annum.

A big casualty has occurred in form of health services at the rural level because most of the health infrastructure has been dedicated to Covid-19 and the general OPD has suffered. It is urgently required to open dispensaries at village level and to provide PPE kits to the doctors. Masks should be manufactured at every village through the village Pradhan and be distributed free of cost and social distancing norms should be taught in every village. Awareness rather than policing should be adopted so as to effectively implement social distancing.

Dr. Mittal further said that the government has proposed disbursement of KCC loans of Rs. 2 lakh crores. An additional reduction of 2% interest rate on KCC loans has also been proposed which would mean an actual contribution of Rs. 4000 Crores. However for corporates loans worth 68,607 crores have been waived. Farmers demanded that earlier KCC should be treated as cancelled and a new KCC should be issued because it will be going to affect the new kharif crop. But the government has not done so rather they have given a stimulus package of 30,000 Crores which would only mean Rs. 2500 each for around 12 crore farmer families.

Permissions for open investments are being given to big corporates and foreign companies. The government was waiting to implement all the steps but could not and now taking advantage of the current situation the government is implementing these measures. He further highlighted that the government is promoting aggregators and FPOs. These aggregators would be powerful locals in the village who would purchase the crops from small farmers at a lower price and what directly supply to the companies.

Lastly, he proceeded to suggest certain measures which are required to be adopted by activists and farmer's right organizations:

- In order to give some relief to the farmers the petrol and diesel prices should be reduced given the current rate of crude oil in the international market.
- The rate of seeds and pesticides should be reduced to half.
- The 'Bataidaar' farmers should be registered and all the benefits including subsidies, compensation, cheaper seeds and fertilizers and loan waivers should also be extended to them.
- Imposition of GST on farmers and rural traders should be stopped.
- Payment of electricity bill due on such farmers should also be dispensed at least for the period of lockdown.
- The imports should be regulated so that the domestic farmers get appropriate price for the produce.
- There should be generation of employment in the rural areas and for that public welfare schemes should be implemented.

Concluding his session he suggested that in order to improve the situation the concept of 'Make in India' should be changed to 'Make for India'. Because unless the local market is developed economy will continue to be in shambles and the farmers will suffer the most which will eventually affect the interest of the country.

4.2. KULDEEP BAUDH

(LAWYER, DALIT LEADER AND HUMAN RIGHTS ACTIVIST)

Kuldeep added to what was said by Dr. Mittal earlier.

He explained that Bundelkhand region falls in both UP and MP and witnesses large scale migration every year. It is a drought prone area and the problems have to be viewed in that context also. The conditions of employment in agricultural activities are pathetic and because of the lockdown things have gone from bad to worst.

According to recent study there are around 5 lakh landless farmers who do agricultural on the land of big *zamindars*. Therefore the relief packages and the subsidies which they are entitled for do not reach them.

The recent newspaper reports reveal that in the last one month around 50 farmers committed suicide and this figure is likely to increase in coming future. Farmers devastated because of the lockdown which is leading them towards abject poverty.

Farmers under the *Batayi* system constrained to borrow money interest rates in order to take care of their household expenses.

Even the welfare schemes launched by the government do not reach the beneficiaries and most farmers remain deprived of the nominal aid given by the government.

The other issue raised by Kuldeep was that the farmers were not able to sell their produce at the Mandi and even the price which is paid to them at the wholesale market is not proper. Sometimes they are compelled to sell even below the cost of production.

The monetary relief released for the farmers for Kisan Bhumi sudhar did not reach to most farmers and otherwise also the sum so paid was insufficient.

Kuldeep proposed that on the basis of data collected by his organisation and with the collaboration of human rights law network a petition may be filed at the High Court thereby highlighting the grievances and sufferings of the farmers of Bundelkhand region.

5. THE FOURTH SESSION: AID TO MIGRANT WORKERS

5.1. MANOJ SINGH

(JOURNALIST AND ACTIVIST)

Manoj Singh who has done number of stories on the migrant issue said that the most affected section of the society during the lock down is migrant labourers. Not only they have suffered extreme hardship but their rights have been violated in every possible way. We have witnessed the violation of right to safe travel, right to livelihood, right to nutrition; and now this violation has become a continuous process.

Manoj further added that for the last 2 months Uttar Pradesh and Bihar has been witnessing a large migrant influx but still no proper arrangement for safe travel has yet been made by the government. The number of road accidents and deaths occurring on the way is a matter of grave concern. Even in Shramik special trains no proper arrangement for safe journey has been ensured. There is no proper arrangement of food, water and medical facilities in such trains.

Giving example of Gorakhpur Mr. Manoj talk about an incident where a dead body was offloaded after the train arrived at Gorakhpur junction. The brother of the deceased on one hand was devastated by the death of his brother and on the other hand he himself was starving.

Another important issue raised by Manoj was that no compensation whatsoever was paid to any of the migrant persons who died on their way back to homes. He expressed dismay and disappointment over the inhuman approach of the governments while dealing with the issue of death of migrant workers.

Before his connection dropped Manoj expressed his concern about non declaration of any welfare policy for the returning migrants. He also reported that unemployment and obtaining ration is one of the main problems in the region.

5.2. VAIBHAV SHARMA

(CHILD RIGHTS ACTIVIST AND FOUNDER, SAFE SOCIETY)

Vaibhav is the founder of safe society a voluntary organisation working for runaway kids.

After telling about the work they do Vaibhav said that because of the lockdown the situation has completely changed. Significant increase has been observed in the numbers of people living on road. New people can be seen dwelling along the roadside. Almost all of these people do not have any resources neither they have a place to live nor do they have something to eat. Even from the place where they stay they are forcefully evicted either by the police or the municipal authorities. They are compelled to live in hiding during the daytime and to sleep on roads at night along with their kids. The matter was brought into the notice of SCPCR and the district administration and it was discussed find a concrete plan to address the issue. However, no planning for identification or providing relief measures was undertaken for these street families.

Vaibhav further added that: “At first representation was given to the district administration but when no action was taken nothing happened we ourselves identified such families and asked the government to provide immediate ration and other relief. The difficulties which was faced by us in the identification process was that the police was not allowing people to be seen on road and beating those were found on roads answer situation it was difficult to locate the actual sufferers.

After the process of identification was completed by us, we submitted a list of people in urgent need of help to the district administration. However, instead of taking any action officials asked us to apply for ration for these families through online channels. But again the difficulty was that most of this run away kids and migrants did not have Aadhar cards.”

At this moment Vaibhav highlighted certain problems which needed much attention.

- The absence of shelter homes for the migrants and those living on roads.
- Despite having ample space within Rain Baseras people were sleeping on roads either because they were not allowed inside or there were no proper arrangement for stay.
- Earlier the children living on railway stations were using toilets built inside the station premises but after lockdown the access to stations have been closed.

- Lastly, Vaibhav pointed out that there is no cash support all for these migrants. Though, food is being provided through community kitchen but these families struggle for basic needs like milk, medicines etc.

Vaibhav is planning to move to Court in case these grievances are not redressed by the district authorities.

6. THE FIFTH SESSION: ATTEMPT TO DILUTE LABOUR LAWS IN UTTAR PRADESH

6.1. DINKAR KAPOOR

(CONVENER, WORKER'S FRONT)

Dinkar started his conversation with opening comments that if UP at present has become a laboratory for diverting economic resources towards capitalism then in future it will be UP only which will repeat the present government in next elections.

He then proceeded to update about three latest developments in Uttar Pradesh which happened in favour of labourers. First, the government had withdrawn its earlier order requiring prior permission for the migrants before going for work in another state. Second, the government had also withdrawn the notification extending the working hours for factory workers from the existing 8 hours per day to 12 hours per day which was against the ILO conventions. And third, the plan of suspending labour laws for 1000 days through an ordinance was not yet implemented.

Dinkar emphasized that in order to understand the attempts to dilute the existing labour laws we have to understand the present situation; which, according to him is not an ordinary situation. Historically speaking, the evolution of labour laws has seen a long journey in India. Right after the formation of League of Nations in 1919 and subsequent formation of the International Labour Organisation, the Trade Union Act, 1926 was the first legislation in India which focused on the rights of labour. Thereafter after the formation of the United Nations many other labour laws were enacted. But all these labour laws existed at the time when there was industrial capitalism. But in the present world a complete era has changed and the economy today is all about economic capitalism.

The government is progressing towards dictatorship and fascism and for which they have used Hindutva as a tool. That is why we see a significant increase in encounters, incidents of communalism, exploitation of labourers and farmers etc. The attack is in holistic manner. And in tough times like this political resistance is duty of every citizen. Approaching Courts can be an important tool for such political resistance.

Mr. Kapoor then went on to describe the details of the petition filed by him before the Allahabad High Court challenging the notification by the UP government in which the working hours for factory workers were raised from 8 hours per day to 12 hours per day. Right after notices were issued in the petition, the government withdrew the notification. He stressed the outcome of the present petition is a glaring example to show that if prompt action is taken with proper knowledge of legal technicalities then any attempt to dilute labour laws can be foiled.

He thereafter, raised question upon frequent exercise of passage of ordinance in the state. According to him the Constitution of India guarantees social, political and economical equality and to ensure such equality there are certain judicial provisions provided in different labour laws. For example under the Payment of Wages Act and the Migrant Worker Act some judicial powers have been given to the labour commissioner. Therefore, if the state is allowed to take away such judicial powers by passing a simple ordinance then it would set a dangerous precedent and would carry disastrous consequences; as in future, the government may also attempt to take away the judicial powers from the High Court by passing a simple ordinance.

Mr Dinkar Kapoor also spoke about imposition of Essential Services Maintenance Act by the state government. He also mentioned about an order passed by DOPT Secretary wherein the government servants have been warned not to indulge in any kind of protest- against any government policy- even if it is symbolic. Such an order is in gross violation of the fundamental rights as well as the rights recognised by the ILO convention 1948.

Thereafter he went on to discuss another public interest litigation taken up Suo Moto by the Lucknow bench of Allahabad High Court in which the court had asked the government to report all the benefits provided to migrant workers. According to Mr Kapoor, instead of providing the required information the government submitted that a new commission has been formed namely the Kamgar evam Shramik Seva Aayog. However, according to Dinkar, this was not a

new commission rather government revamped the existing commission known as Pravasi Aayog.

On the issue of relief measures for the migrant workers Mr Kapoor informed that recently the government has come up with a plan to make onetime payment of rupees 1000 along with 15 kilograms of ration worth rupees 1250. The amount so decided is grossly insufficient. He stressed that such orders should be immediately brought into the notice of Supreme Court as well as the High Court in order to expose the insensitive approach of the government.

He went on to say the Indian Trade Union resistance is running in a mechanical fashion otherwise such attempts to dilute labour laws must have been defeated earlier.

In the last, he talked about the recent orders of the Chief Secretary (Finance) which contains the following directions/decisions:

- No Central funded scheme shall be implemented in the state before actually receiving funds from the centre.
- No new construction activities shall take place in the state.
- No new projects will be introduced.
- State government has resolved to abolish certain posts due to technical upgradation.
- There will be no new recruitment.

According to Mr. Kapoor MNREGA will be most affected by this order. He illustrated certain villages where payment was not made even after work was taken from the labourers. He suggested that the system of making payments to MNREGA workers in 15 days should be done away with rather during the corona time daily payment should be made by using Aadhar based interface.

He concluded by saying that corporate oriented system requires to be changed and that can happen with peaceful political resistance.

At this juncture Mr. **Vishnu Shukla** added that for the first time in the history of India the number of migrant workers in India has been identified. Different spokespersons of the government quote different number of migrant workers in the country. Interstate Migrant Workmen Act provides that the registration of migrant must be done in both the home state

and state migrated. Therefore, proper registration is most important in case of migrant workers. He further pointed out that usually the purpose of ordinance is to introduce a new law but in Uttar Pradesh ordinance is being introduced to suspend many laws altogether. Moreover, it is rightly said that Central Acts cannot be unilaterally suspended by the State government.

6.2. GUNJAN SINGH

(ADVOCATE, HUMAN RIGHTS LAW NETWORK, DELHI)

Gunjan started his discussion from where it was left by the last speaker. Gunjan said that there are two important issues which require discussion in the present scenario. First, changing of labour laws which were started by the state of Rajasthan and followed by UP and MP. Second about the changes brought in working hours only. State of Gujarat went one step ahead by introducing single wage rate for the extended hours also which is a direct violation of section 59. Section 59 provides double wages for overtime.

Regarding the Factories Act he said that as far as section 5 is concerned one thing is important to highlight that explanation to section 5 provides that the state has the power to relax / suspend certain provisions of the Act. However, such power can be exercised only when there is a threat to the sovereignty and territorial integrity of India either by foreign invasion or internal disturbance. Therefore, Covid-19 pandemic does not qualify to be an internal disturbance. And therefore, section 5 will not apply in present situation.

Advocate Gunjan then emphasized that today's labour laws have been won after hard-fought struggle. As of now, only working hours are changed but the proposed relaxations are horrifying. The edifice of labour laws is Industrial Dispute Act. It is the cornerstone of labour movement. What will happen if the Industrial Dispute Act is suspended? The provisions of retrenchment will be done away with and the policy of hiring and firing will come in force. What will happen to the gratuity? A person's hard earned money will be at stake. Secondly, the provisions of Industrial Dispute Act not meant for workers alone rather they are important for the maintenance of industrial peace in case there is some dispute between workmen and the management.

He further told that there is not much clarity what all laws will be taken away. In many cases like Bandhua Mukti Morcha, Nirja Chaudhary and PUDR the Supreme Court has said the payment below nominal wage would amount to bonded labour. So what will happen if Payment of Wages Act is suspended? One important thing which is backed by historical effect and scientific study is that long working hours doesn't ensure efficiency.

He also clarified on the question of law as to whether the States can suspend the Central Laws. According to him states 'can' suspend central laws by way of an ordinance but only after the proposed changes have received the assent of the president of India.

Lastly Gunjan remarked that we must believe that the proposed changes would fail as they are not backed by settled law.

6.3. NIRMAL GORANA

(CONVENER, NATIONAL CAMPAIGN COMMITTEE ON ERADICATION OF BONDED LABOUR)

Nirmal, who has worked extensively on the issue of Bonded Labour remarked that initially it appeared that anger of labourers was turning into a movement but suddenly it fizzled out, However, somewhere and to some extent it bothered the government.

Nirmal further added that the Government is trying to weaken the labour laws. First attempt in this direction was the attempt to merge the labour laws and then they tried in form of wage code. But soon after, the government realized that changes to labour laws can be made through states also. Covid-19 what's the best time for that when movement couldn't be mobilized.

It is the time for us to ponder- what are we doing? We will have to think that what will happen to the migrant labourer after returning to his home? What will be his future? One section of such workers will never return to the cities but the younger generation will sooner or later try to get back for work. For the time being they will be able to survive in their villages but in the long term when they will return to the cities the changed labour laws will eventually affect them.

The government is working strategically and on trial basis while amending the labour laws. Government took back the notification after observing the public reaction.

With respect to inter-state migrant Nirmal questioned that do we have exact data? Does the government have exact data? The answer is no. Then how did the government prepared the budget?

Nirmal also proposed the solution which is that the government should do registrations through Interstate Migration Act; so that the benefits could reach the workers directly. Right of a worker is not waived if he returns to his home state. His migration was distressed so is his return.

Lastly, Nirmal commented that discussions should not end up in meetings alone rather we should plan something concrete and it is the best time to do so.

7. THE SIXTH SESSION: PRISONERS' RIGHTS

7.1. TAPAN VAHAL

(RESEARCH SCHOLAR)

Tapan, at the outset commented upon the mindset of the society regarding the prisoners. He said that it is generally presumed that the person who is in jail is actually a bad person and whatever sufferings he is facing inside the Jail are actually part of his sentence. But, the reality is altogether different, he said.

Tapan told that in 1980, the Supreme Court raised a question that whether the fundamental rights of the prisoners exist? The Supreme Court held that apart from putting restriction on the movement, all fundamental rights of a prisoner remain intact.

He explained that the prisoners are actually segregated from the society. Most of them come from socially and economically backward section of the society. They already suffer from resource crunch because of which they spent much time inside the prisons even for petty offence. Most of the problems they face inside jails remain confined and do not come out in open.

Tapan then emphasized upon the problem of overcrowding in Indian jails. There is around 120% overcrowding as per the NCRB data and there is huge shortage of facilities. Uttar Pradesh stands at Rank #1 in terms of overcrowding and there is almost 180% of overcrowding in jails. Considering this situation, it was required that effective measures were adopted at the earliest. Those prisoners who were eligible for release or those who were convicted for petty offences or those who couldn't arrange for sureties etc should have been released much earlier. But now such measures are being adopted only after the intervention of the Supreme Court in view of Covid-19.

He further told that on 23 March 2020 Supreme Court directed the formation of High Powered Committee comprising of 3 members. It further directed that prisoners imprisoned for offences punishable with less than 7 years should be released. In case of convict, they should be released on interim parole and if they are undertrials they must be released on interim bail for 8 weeks. Around 10,000 undertrials and 2,000 convicts were released by Uttar Pradesh government.

Even this figure has not improved the situations to a great extent rather many more prisoners could have been released. The supreme Court had permitted states to frame their own guidelines but the state of UP chose not to do so. Around 72% of prisoners are undertrials who require much attention. Another aspect was the abrupt release of the prisoners where they were just let go and no arrangements were made for their transportation.

The prisoners also faced backlash from the society due to fear of Corona. Later, the Supreme Court intervened and passed another order on 13th April that the prisoners who are supposed to be released must be tested for Corona and arrangement for their safe transportation must be made. But, by the time this order came a lot of people had already suffered.

He further spoke about the possibility of spreading of corona infection in jails and commented that already many jails in different states have reported corona cases. He stressed that more testing is required inside jails as there are already other problems and prisoners are most vulnerable to such infection.

Lastly, he commented that though there are certain positive things which have also happened like productions of masks in jails etc. but there are many more things which require improvement urgently like repair of dilapidated buildings and improving overall facilities.

7.2. ASHMA RAHMAN

(ADVOCATE PROVIDING LEGAL AID TO PRISONERS, MOSTLY WOMEN)

Ashma spoke about the condition of women prisoners. She pointed that the main problem with respect to women prisoners is that in most of the cases these women are charged for an offence which they were compelled to commit or they did not commit at all.

She added that mostly these women are domestic violence survivor and the alleged offence was committed when they were acting in self defence. But later they were booked without considering the circumstances under which the offence was committed.

Ashma told that generally no support is provided to such women. For them it is very difficult to find someone to bail them out; because many of them are abandoned by their parents or grown up children because of the social stigma and taboo attached with their incarceration.

When such women are in jail they suffer with both physical and mental difficulties. They have to maintain the cleanliness in the toilets, they take care of the kitchen etc. Over and above everything the mental stress because of the loneliness and withdrawal from the society takes a toll on their health.

Ashma also raised another important issue regarding the reemployment opportunities which cease to exist once these women are out of jails. Their desperation to find jobs often land them in situations where they become vulnerable to exploitation, both mental and physical. Lack of economic independence and absence of social security are the main factors contributing to such situation.

Ashma then proceeded to share a case study where a woman was disowned by her family and was not allowed to enter her house. Later with the help of an organization she somehow managed to find a small hut like structure to live in.

Lastly, Ashma spoke about what she witnessed during the CAA protest in Lucknow and her role as a lawyer. She told that the Muslim community in particular was targeted. Densely populated Muslim majority areas were identified by the police and coercive measures were adopted in response to the peaceful protests. Police used ladders to jump inside the houses and carried out the arrests in the middle of night. After these people were sent to judicial custody they were addressed as 'dangayi' or rioters. They were also beaten up brutally during the custody.

For the first time when she tried to meet the clients in jail she was refused by the jail superintendent citing orders from the higher authorities. However, later she was allowed to visit the jail after she threatened authorities that she would file a complaint before the courts. During her visit she found that the medical examination was not carried out in a proper way and in most of the reports proper injuries of the inmates were not mentioned. In some cases the family members were not informed about the arrest therefore the actual whereabouts of these persons were not known to their respective families.

The session ended by Ashma concluding that much change is required in the present prison system and we should strive for that.

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