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# **COVID-19, Migrants, Media**



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# **COVID-19, Migrants, Media**

**Rajat Roy  
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**2020**



## **Content**

- 1. The Issues Related to the Migrant Workers: How the Governments' Assurances Remained Unfulfilled**  
by *Rajat Roy* 1-10
- 2. Understanding the Perils of Statelessness through an Analysis of the Newspaper Coverage During the COVID-19 Pandemic in India**  
by *Ritambhara Malaviya* 11-20



# The Issues Related to the Migrant Workers: How the Governments' Assurances Remained Unfulfilled

Rajat Roy \*

As the sudden countrywide lockdown rendered millions of migrant workers without a job and income, they were forced to take up an arduous journey to return to their home states. The sudden appearance of the migrant workers on highways and railway tracks caused a huge uproar in the civil society and the initial response of the mainstream media was that of dismay fearing that the violation of lockdown by thousands of migrant workers would spread the virus and threaten their lives. As the news spread of the migrant workers leaving their temporary shelters and trying to reach their home states, the reaction of the civil society was aptly reflected in an editorial in *Times of India* on April 20, 2020. It goes like this:

An imaginary video call between ladies and gentlemen of Mumbai's Malabar Hill and Delhi's Golf Links:

Golf Links resident: Hi, darlings. Saw those dreadful pictures of migrants who haven't eaten for days? If they get infected, we'll really have a pandemic. Where did all these people suddenly come from?

Malabar Hill resident: We have got corona patients even in our building, can you imagine? Not just in the slums... — Sagarika Ghose in third edit in *TOI*, April 20, 2020

Amid coronavirus lockdown, over 900 stranded pilgrims from South India sent home from Varanasi by buses — *Free Press Journal*, April 15, 2020

1,800 people stranded in Uttarakhand to return to Gujarat in 28 buses — *India Today*, March 28, 2020

U.P. government sends 250 buses to Rajasthan's Kota to bring back 7500 students — *Livemint*, April 17, 2020

These are representative of the responses evinced by the states and mainstream media to the COVID-19-inspired lockdown throughout the country. One cannot fail to notice the common characteristics that have surfaced. There is a pronounced class bias in their attitude captured in the news and views regarding COVID-19. The migrants, who were there all through their work in unorganized sectors and service sectors, yet had an invisible existence, have all of a sudden become visible. But this sudden visibility is laced with a danger of spreading the virus, and thus presented the migrants as outsiders, like external agents who are threatening to disturb the ecosystem of health in the society.

As the media continued to cover the migrant workers' journey back to their respective home states, the travails of their journey, the death on railway track and on highways, started pouring in. Gradually, the media reports created some public outcry and as a result of that a number of PILs

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were filed before Supreme Court and some of the High Courts by stakeholders seeking intervention by the judiciary to force the State to do more for the hapless migrant workers. Though the Supreme Court was initially reluctant to intervene in the matter, however, with the passage of time it took cognizance of the matter seriously and nudged the State to act accordingly. Consequently, the Government of India and other state governments were forced to take some affirmative steps to ameliorate the conditions of the migrant workers to some extent, though that was not enough.

An attempt is made here to examine some of the cases pertaining to the issue that were deliberated upon by the Supreme Court and see whether the observations made and orders issued by the court could motivate the State to take some policy decisions, if any, regarding the migrant workers.

## **Initial Reluctance**

The countrywide lock down was imposed on March 24, 2020. After that the migrants started coming out on roads to find ways to go back to their home states. On March 31, Tushar Mehta, the Solicitor General of India, while submitting a status report to Supreme Court, said that “there is no persons walking on the roads in an attempt to reach his/her home towns/villages. Anyone who was outside has been taken to the available shelters.”

On March 31, while hearing a writ petition on the issues related to migrant workers, the CJI S. A. Bobde and Justice Nageswar Rao observed the following points:

- We are informed that the labourers who are unemployed due to lock down were apprehensive about their survival. Panic was created by some fake news the lock down would last for more than three months.
- The very idea of the lock down was to ensure that the virus would not spread. It was felt that the transportation of the migrant labourers would aggravate the problem of the spread of the virus.
- Section 54 of the Disaster Management Act, 2005 provides for punishment to a person who makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic.
- We expect the media (print, electronic and social) to maintain a strong sense of responsibility and ensure that unverified news capable of causing panic is not disseminated.<sup>1</sup>

But the Supreme Court’s immediate response to the migrants’ issues demands closer examination. On April 7, when senior advocate Prashant Bhushan representing Harsh Mandar appealed before Supreme Court to direct cash transfer to the migrant workers, the bench of Chief Justice S A Bobde, Justice S K Bail and Deepak Gupta observed that the migrant workers stranded in various states need not be paid cash as they were being fed free of cost by the government.<sup>2</sup> The observation was made after the Government of India submitted a status report on the migrant workers to Supreme Court. In the report submitted by Solicitor General Tushar Mehta, it was claimed that the government has set up 22,567 shelter homes across the country and NGOs have added to that with another 3,909 shelters bringing the total to 26,476, which together housed 10.3 lakh people. There are 17,000 food camps where around 84 lakh people are fed daily. Also, over 15 lakh migrant workers are given shelter and food by employees and industries where they were



employed. Responding to the petition filed by Prashant Bhushan on behalf of Harsh Mander, the Supreme Court bench observed, since the workers are fed by the government, the court do not see the need for giving any order making cash transfer to them. The court ignored the plea of the petitioner that the workers need the money for their family at home. What was overlooked in this observation is the fact that the government even by its own admission has covered only a tiny fraction of migrant workers affected by the lock down. The government has housed 10.3 lakh migrant workers, and 85 lakhs are fed in food camps. Even if we consider these two figures are not overlapping, and add another 15 lakh workers who are sheltered and fed by their employers, then the grand total comes to 110.3 lakhs or little over 11 million.

### **The Unresolved Puzzle of Number**

According to 2011 census, there are 453 million migrants in India and though a large number of them went to other states owing to their marriage, many left their home states in search of better job. In Maharashtra, a preferred destination of many, the migrants are 20.38percent of the population at 22.89 million. But it has to be admitted that not all migrant workers are living a precarious life, the IT workers in Bengaluru, Hyderabad and elsewhere, and a big number of migrants engaged in other white-collar jobs, are not in need of State's largesse. Still, as we look at the scenario, migrant population in West Bengal is 10.33 million, Delhi is having 2.9 million, for Tamil Nadu it is 12.39 million, Karnataka 10.49 million and so on. Even if it is considered that during the period 2011-20 the migrant population in these states did not grow because of the long period of economic recession and the steady rise of rate of unemployment in the country, and even if we consider that a good number of migrant workers slipped through the lock down to their home states, still it is extremely difficult to account for the huge gap between the census data and the number of migrants covered by the government. A huge number of migrant workers remain invisible.

The picture becomes clearer when we examine the submissions made by several states to Supreme Court stating the number of migrants they have transported to their home states or brought back home. According to Tushar Mehta, Solicitor General, from May 1, 2020, to June 3, 2020, approximately 4,228 Shramik trains were running from different states to carry the migrant workers to their destinations. Around 57.22 lakh migrants have been shifted to various destinations located in Uttar Pradesh, Bihar, Jharkhand, Odisha, Madhya Pradesh etc. It is mentioned that nearly 80percent of the trains were bound for UP and Bihar and balance trains headed towards Eastern India. Also, about 41 lakh migrant workers have been taken from their respective places to their desired destination through road transport. The State of Maharashtra submits that about 12 lakh migrant workers have been sent to their native places. Delhi reports that about 3 lakhs migrant workers have been sent to their native places by 238 trains and about 12,000 have been sent by buses. Also, around that time about 6.5 lakh persons have been registered for their travel back to their home states. Similarly, in Gujarat 14 lakh of the total 23 lakh migrant workers residing there, have been sent back till June1, 2020. The state of Uttar Pradesh submitted that 25 lakh migrant workers have returned in the state after the lock down. Bihar admitted that about 28 lakh migrants have returned to the state. In Madhya Pradesh, about 14 lakh migrants have returned, in Rajasthan about 13.6 lakh workers returned. The State of West Bengal in its affidavit stated that 6.52 lakh workers were still to come to the state. However, the experiences of Kerala and Karnataka, two most preferred destination for the migrant workers after Maharashtra, give a different picture. Karnataka stated that there were less than 1 lakh stranded migrant workers, who were still awaiting return. But, due to the opening of the industries in Bengaluru and other areas, most of the migrant workers re-joined their work. In Kerala,

1.53 lakh workers have been transferred by 100 Shramik trains, and 1.2 lakh workers were still waiting for return. From the Supreme Court order, it was not clear how many migrant workers were brought back by the State of West Bengal after the early months of lock down. It only mentioned that 6.82 lakhs of migrant workers were still to come back.

But the question remains unresolved as to what would be the total number of migrant workers that were affected by lock down and consequent loss of their livelihood? So, all we have is rough estimate. That is the reason when on May14, 2020 the Union Finance Minister Nirmala Sitharaman announced to give free ration of 5 kilograms of grain and 1 kilograms of Chana Dal to per family per month for two months, she told that it would cover 8 crore migrant workers. But she had to admit that her government did not have any real data about the total number of migrant workers in India, they had arrived at the figure of 8 crores by collating data given by several state governments. Around that time on 4 June, 2020 the UN Rights Experts issued a statement wherein it said that India must follow Supreme Court orders to protect 100 million migrant workers.<sup>3</sup>

Now, let us go back to the early days of lock down to see how the government administrations (both union and state governments) responded when the migrant workers started sporadically their journey back to their respective home states defying the lock down that put a ban on transportation and traffic movement. Under Section 51 of the Disaster Management Act, 2005, it is an offence to violate the biddings of the administration when the law was invoked after the outbreak of the COVID-19 pandemic. That the migrants, by coming out of their dwelling places and starting journey home, were breaking the law was noticed by The Ministry of Home Affairs. In a notification issued on March 29, 2020 (exactly five days after the lock down began) it observed:

Whereas, movement of large number of migrants have taken place in some parts of the country so as to reach their hometown, this is the violation of lock down measures of maintaining Social Distance.<sup>4</sup>

Ironically, on March31, i.e., two days after the MHA notification that large number of migrants had come out on road, the Solicitor General Tushar Mehta submitted before Supreme Court that there was no one on the road. Also, in the same notification the MHA advised all the state governments and UTs to strictly implement the lock down. Taking cue from the noting, the police started putting up barricades on the roads and highways, and also registered FIRs against a number of migrant workers in various states for violating the lock down. The traffic movements, both intra and inter states were halted. At all entry and exit points on the inter-state borders, heavy police forces were deployed to implement the ban. At Mumbai, Delhi and some other cities and towns the migrant workers were brutally assaulted by the police when they were found on roads.

This ban would continue for several months and on May17 the MHA would relax a bit by allowing restricted movements of inter-state passenger vehicles and buses with mutual consent of the states/UTs involved.<sup>5</sup>

At that time, the Supreme Court was also not seen to be taking a stance on the issues related to the migrant workers. On April7, 2020 when hearing a petition filed by some people to request the Court to urge the administration for coming to the rescue of the migrants, the CJI Bobde said that the judges were not experts in these matters, and so could not take better policy decisions than the government at this point. “We can’t supplant the government’s wisdom with our wisdom,” he explained.

As a result, he said the court did not intend to interfere with the government’s efforts for the next 10–15 days. Prashant Bhushan, representing the petitioners, responded by saying that if the court doesn’t take up the matter, many people may die of starvation, and requested that money should at least be given to migrants registered with the government to send to their families. Indeed,

many people died in the following months. The Supreme Court's indifferent attitude came for severe criticism by former judges, most significant of them was Justice A P Shah.

In a strong attack on the functioning of the Supreme Court during the coronavirus crisis, Justice A.P. Shah, a former Chief Justice of the Delhi and Madras high courts and a former Chairman of the Law Commission, has said he is "thoroughly disappointed" with the top court.

Differing with Chief Justice S.A. Bobde's view that "this is not a situation where declaration of rights has much priority or as much importance as in other times," Justice Shah said:

"This is not correct...(the) Court's duty is more onerous in times of crisis." (*The Wire* May 5, 2020)

## **Shifting of Position**

But by the time the lock down had extended to the month of June, the Supreme Court started taking a more sympathetic view of the crisis involving migrant workers.

The Supreme Court's three-member bench consisting of Justice Ashok Bhushan, Justice Sanjay Kishan Kaul and Justice M R Shah in a Suomotu notice on Problems and Miseries of Migrant Labourers observed that: "The migrant labourers, who were forced to proceed to their native place, after cessation of their employment are already suffering. The financial difficulty being with all the migrant labourers invariably they have to be dealt by the police and other authorities in a humane manner." (The Supreme Court of India, Civil Original Jurisdiction/ Suomotu Writ Petition (Civil) - No(s)—6/2020 / In Re: Problems and Miseries of Migrant Labourers/ Order)

Earlier, it was fake news that was held to be responsible for creating panic among the migrant workers and forced them to initiate journey to their native states and that was viewed as unnecessary and violation of lock down related measures. Now, the court took cognizance of the fact that "The migrant labourers were forced to proceed to their native place after cessation of their employment." panic reaction of the migrant workers would no longer be linked to fake news. Instead, once the basic fact about the root cause of the exodus was accepted, the court started expressing its concern on issues related to the transportation of the migrant workers, their registration, relief and other matters.

Significantly, the Supreme Court also took cognizance of the fact that the society as a whole was moved by miseries and difficulties of migrant labourers. In the abovementioned order, the Court observed: "We may also notice one more fact. Although it is the responsibility and duty of the States and Union Territories to take care of all the needs of migrant labourers but in this difficult time non-governmental organisations and individuals have also contributed and played an important role in extending helping hand to the migrants. The society as a whole was moved by miseries and difficulties of migrant labourers and it exhibited its passion and devotion by way of individuals. Non-government organisations coming forward to help the migrant workers and to fight the pandemic and extend help by providing food, water and transportation at their cost which deserves all appreciation."<sup>6</sup>

Bangla Sanskriti Mancha is one such non-government organization that has been working in south Bengal for the last few years. According to its president Samirul Islam, the Mancha has been working with the migrant workers in close connection ever since the lock down began and it started helping those migrants who hailed from West Bengal and were left stranded in Bangaluru, Delhi, Mumbai, Coimbatore and elsewhere by offering them money to buy food and sometimes arranging their return journey. Later when they returned to West Bengal Sanskriti Mancha ran field kitchens to

feed them and organised mass protest demanding for their work in the state. At the same time, they had prepared a data base of those migrants with district wise break up and details about their skill etc. According to Samirul, they had prepared data of more than 130,000 migrant workers in the process, which was shared with the district administration.

### **The Affirmative Actions**

The Supreme Court did not stop at merely appreciating the work done by the non-government organisations. For the government agencies, it issued clear advisories as to how to mitigate the distress of the migrant workers and asked the state governments to submit reports to the court giving details of how they were implementing those advisories. These advisories include:

- All the States/UTs shall take all necessary steps regarding identification of stranded migrant workers in their State which are willing to return to their native places and take steps for their return journey by train/bus which process may be completed within a period of 15 days from June9, 2020.
- In event of any additional demand, the railway shall provide Shramik trains within a period of 24 hours...to facilitate the return journey of migrant workers.
- The Central Government may give details of all schemes which can be availed by migrant workers who have returned to their native places.
- All States and UTs shall give details of all schemes which are current in the State, benefit of which can be taken by the migrant labourers.
- The State shall establish counselling centres and helpdesks at the block and district level to provide necessary information regarding schemes of the government and to extend a helping hand to migrant labourers to identify avenues of employment and benefits which can be availed by them under different schemes.
- The details of all migrant labourers, who have reached their native places, shall be maintained with details of their skill, nature of employment, earlier place of employment. The list of migrant labourers shall be maintained village wise, block wise and district wise.
- The counselling centres, established, as directed above, shall also provide necessary information by extending helping hand to those migrant workers who have returned to their native places and who want to return to their places of employment.
- All concerned States/UTs to consider withdrawal of prosecution/complaints under Section 51 of Disaster Management Act and other related offences lodged against the migrant labourers who alleged to have violated measures of lockdown by moving on roads during the period of lockdown enforced under Disaster Management Act, 2005.

### **At the Grassroot Level**

While the responses of the States/UTs about how far they have been able to implement the directives were not available, a random check with some of the migrant workers of West Bengal gives a dismal picture. A few of them went back to their places of employment. But most had to pay the fare from their own pocket, which was quite high compared to normal times. The migrant workers,

who were approached for the check, claimed that they did not get any financial assistance when they journeyed back to their native places. Milan Ali, a mason by profession, was working at Mumbai. After the lock down began, he, with 50 others, arranged for a lorry to take them to Birbhum's Margram. They had to shell out Rs4,000 each to meet the cost of transportation. After sitting at his village for some days and searching for jobs in vain, he returned to Mumbai, where, according to him, jobs are available on regular basis. On the other hand, Saraful Sheikh, a mason from Suti, Murshidabad had returned home from his work place at Coimbatore, Tamil Nadu, and since then stayed put there. According to Saraful, he had to spend Rs6,000 to get a seat in a bus that took migrant workers back from Tamil Nadu to West Bengal. Now, he gets occasional work that too at a cheaper rate compared to that of Tamil Nadu. He is waiting for a call from Coimbatore before he embarks on an outward journey. Mostar Alam Khan of Nandigram went back to Delhi, a few months back. When he came to Bengal, he paid the train fare, but the fare for the return journey was borne by the authority. As a tailor, he found it worthwhile working at Delhi than in his native state. These and some more people, when contacted, found to have one thing in common: Despite the Supreme Court's advisory to maintain detail record of these migrant workers, their names and other particulars were not registered by the state government. Also, contrary to the SC directives, the administration at block and district levels did not approach them with information and offer for alternative scopes of employment. But, some of them had admitted that once they returned home, the state administration did pay them Rs1,000 as a one-time payment. What is also to be noted that despite the SC's directive that the migrant workers should not be charged any fare for their transportation to native place and the return journey to place of employment, many of them did not get the benefit. Also, the migrant workers admit they have been getting free ration at home. However, explaining the push factor Milan Ali quipped, "Free ration is taking care of our daily need for food. But there are other needs, mostly for medical treatment of the elderly people, that requires hard cash. Also, other essential things needed to be purchased from time to time. Hence, we are compelled to go back to other states where there are at least some scopes for earnings."

As Tahidul Islam, a leader of a small organization that works for the poor peasants and migrant workers in Murshidabad, says, the migrants are eagerly waiting to return to their work places. But since the regular train services is yet to resume, most of them are compelled to stay back. Many of them are trying to earn some money by working as a Bidi worker. But there is no steady employment there. According to estimates made by Samirul Islam, leader of Bangla Sanskriti Mancha, not more than 10percent of the migrant workers had gone back to their workplace.

### **Poor Implementation of Registration Process**

For building the data base of the millions of migrant workers and with regard to working of the enactments of those laws the Supreme Court referred to three existing laws. These are:

- Inter-State Migrant Workmen (Regulations of Employment and Conditions of Service) Act, 1979;
- Building and Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996; and
- Unorganised Workers' Social Security Act, 2008.

These acts have ample provisions for keeping all necessary data about the inter-state worker employed with the company for a specific period. The contractors or the principal employers need to

furnish particulars to the specified authority in the State from which an Inter-State migrant workman is recruited and in the State in which such workers are employed within 15 days from the day of recruitment. Also, the employer/contractor will ensure that the inter-state worker shall in no case be paid less than the wages fixed under the Minimum Wages Act. Also, they will have to pay journey allowance and provide for residential accommodation and medical facilities. The migrant worker will have to be provided with a pass book with a passport size photograph and giving details of his period of employment, wages and other allowances etc. Most importantly, it is made mandatory for every Principal Employer and every contractor to maintain a register and records giving such particulars of the migrant workman, especially the nature of work, the rates of wages of the migrant workers etc. These details will have to be furnished to the specified authority in the State from which a migrant worker is recruited and in the State in which such worker is employed within 15 days from the day of recruitment. Provisions are also there in the acts for the errant employers who would be punished with imprisonment. However, with the lack of initiative on behalf of the state governments, the rate of registration is still very poor. According to data available with the Periodic Labour Force Survey (PLFS) of employment, there were nearly 5.5 crore construction workers in the country in 2017–18. and studies indicate that about 2 crore workers would be left out of benefits sourced through the Direct Benefit Transfer mode.<sup>7</sup>

But despite repeated prodding by the Supreme Court, there was no concrete response submitted by the state governments. On 09 June the Supreme Court observed that for identifying the migrant workers in different states, the protocol of registration is already invoked. The SC is of the view that the identification of migrant workers be immediately completed by all the States/UTs. Yet, on 31 July the same bench of Justice Ashok Bhushan, Justice R Subhash Reddy and N R Shah observed that no states had filed affidavit giving its response with regard to steps taken by the States in regard to aforesaid enactments. While Maharashtra government did submit an affidavit, it skipped the issue and instead referred to Maharashtra Unorganised Workers' Social Security Rules, 2013 framed under Workers' Social Security Act, 2008. However, at the same time it admitted that registration under unorganised workers Social Security Act had not started.<sup>8</sup>

Meanwhile, Gujarat's position was revealed in a report submitted by the state government to the Gujarat High Court. On May 22, the Gujarat government submitted a lengthy report giving details of the measures taken to fight the COVID-19 epidemic before the Gujarat High Court. In that report it was mentioned that "The provisions in the Inter-State Migrant Workers Act, 1979 are applicable to the registered migrant workers under the said Act. There are 7512 workers registered under the said Act. Based on the available data, there are around 22.5 lacs migrant workers across the State."<sup>9</sup>

Very few media also highlighted the issue. On 22 April, *The Hindu* did a story: 'Spotlight on non-implementation of Act to protect Migrant Workers.'<sup>10</sup>

### **Who will Pay Wages to Workers for the Lockdown Period?**

There is another crucial area affecting the lives of the workers that include the migrant workers too. The Ministry of Home Affairs issued an order in exercise of powers conferred under 10(2) of Disaster Management Act, 2005, on 29 March, wherein it said that all employers would have to make payment of wages of their workers on the due date, without any deduction, for the period their establishments would remain under closure during the lockdown. This order was vehemently challenged by some employers before the Supreme Court. Their arguments were as follows:

- The government cannot invoke Section 10(2) or any other provisions of Disaster Management Act, 2005 to impose financial obligations on the private sector such as payment of wages. Instead the government should utilise the fund collected by Employees State Insurance Corporation (ESIC) to make periodical payment to the workers.
- The government order was also contrary to the principles of Equal Work, Equal Pay and No Work, No Pay.
- It infringes the rights of employers under Article 19 (1)(g).

The Government of India later withdrew the said order w.e.f. May 18, 2020. But the dispute remained unresolved. But employees' unions were also impleaded in the same case. Their demand was to implement the 29 March order by MHA fully. They pointed out that the nationwide lockdown and resultant closure of the workplaces directly affected the sustenance and livelihood of the workers. Hence, they supported the government order to compel the employees to make payment of wages to the workers.

After deliberating on the matter, the Supreme Court's three-member bench observed that there could be no denial that the lockdown measures which were enforced by the government of India had serious consequences both on employers and employees. Instead of issuing any directive, the Supreme Court suggested a process of negotiation between the employers and employees.<sup>11</sup>

## **Conclusion**

Thus, we could see that the two key institutions of our democratic system, i.e., the judiciary and the executive, showed some signs of inertia/confusion in their initial responses to the various consequences, especially the misery it brought upon the lives of the migrant workers during the lockdown period. One may also infer that the public outcry as the direct response to the extensive media coverage of the travails of the migrant workers in various parts of our country, gradually forced the Judiciary and the State to respond more affirmative way.

However, there could be a different view altogether. Earlier, we have seen that the migrant workers started coming out on roads in the states where they were working with a view to return home immediate after the nation-wide lock down was announced. To stop them from leaving their states of work, the Union government issued firm order warning them of the penal consequences they might carry if they continued their homebound journey. The states were also asked to seal the inter-state borders, so that the migrant would not be able to leave their states of work. Further, the states were nudged by the union government to file cases against the migrant workers for breaking the lock down. It was much later the States took or were forced to relax that. What is missing here is the non-recognition of the fight put up by the Migrants defying all the fiats issued and impediments put up by the States. It should not be forgotten that the migrant workers are not organised under trade unions. Though they are more than 10 crores in number, yet they remain in the unorganized sector and pursue a precarious life. Yet, without the presence of a centrally coordinated leadership, the migrants in Delhi, Mumbai, Bengaluru, Tamil Nadu, Kerala and elsewhere behaved in a uniform manner. The migrants' march to their home states was perhaps the largest 'forced migration' that took place since the Partition of India. The way they defied the State's orders was definitely an act of rebellion.

It took both the judiciary and the State by surprise. While the judiciary shifted its stance from being passive to radically active to create a long list of do's and don'ts for the executives, the

governments' (both central and states) responses were lacking in spirit. In fact, despite repeated the nudging by Supreme Court, most of the state governments have not started implementing the directives issued by Supreme Court in regard to the well-being of the migrant workers. Once the focus of the media was gone, the government administrations went back to their routine and the problems of the migrant workers were left unattended.

## Notes

<sup>1</sup> Writ Petition No: 468/2020, Supreme Court of India, *Alok Kumar Srivastavans Union of India*, April 7, 2020, accessed October 1, 2020 at 7.30 p.m.,

[https://main.sci.gov.in/supremecourt/2020/10789/10789\\_2020\\_0\\_1\\_21581\\_Order\\_31-Mar-2020.pdf](https://main.sci.gov.in/supremecourt/2020/10789/10789_2020_0_1_21581_Order_31-Mar-2020.pdf)

<sup>2</sup>“Don't Want to Meddle with Govt's Decisions on Migrant Workers: SC,” *The Print*, April 7, 2020, accessed on September 21, 2020 at 10.00 p.m., <https://www.thequint.com/news/law/sc-coronavirus-lockdown-migrant-workers-petitions-mander-aruna-roy-mahua-moitra-no-interference-govt-decisions>

<sup>3</sup>“India must follow Supreme Court orders to protect 100 million migrant workers: UN Right expert,” *UN News*, June 4, 2020, accessed on 25 September, 2020 at 12.51 p.m., <https://news.un.org/en/story/2020/06/1065662>

<sup>4</sup>Government Order on implementation of Disaster Management Act. Order no. 40-3/ 2020-DM-I (A) dated: March 29, 2020, accessed on September 14, 2020 at 1.00 p.m.,

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# Understanding the Perils of Statelessness through an Analysis of the Newspaper Coverage During the COVID-19 Pandemic in India

Ritambhara Malaviya \*

## Introduction

COVID-19 had tragic consequences of unimaginable magnitude for the social and economic well-being of the people across the world. The pandemic was instrumental in making visible many of the fault lines in the sociopolitical and economic organization of the world — problems that had been simmering under the layers of routine life and had been allowed to pass unnoticed, and had been accepted and normalized in the world. However, the countries came face-to-face with these dormant problems as the pandemic defied any easy solutions. One such problem was the issue of migration and the states could find no answers as to how to stop the spread of the disease amidst the massive populations which had been rendered into hapless illegal economic immigrants, or refugees fleeing conflicts or persecution, or the stateless people tossed amid the troubling seas in search of a dock.

The only way in which the states could find themselves managing this problem was through measures which only exacerbated the problem — closing the borders, sealing off the migrant camps, not allowing the boat people to land on their territories and leaving the rescued to fend for themselves with very little assistance. However, this huge problem was also managed by not allowing it to become an agenda for the public, with the mainstream media keeping the debate confined to issues that resonated with the priorities of the statist agenda.

This paper tries to examine how the immense tragedy of the stateless during the pandemic was reflected in the public debate through a study of the *Indian Express*. Because the stateless remained invisible in debates in the mainstream media, the paper also draws upon coverage of some other debates and concerns to throw light on how the various socioeconomic problems and issues discussed in the newspaper can be deconstructed to understand the plight of the stateless. The Rohingya bear the double burden of marginalization as they remain excluded from the very language of rights and entitlements, which can theoretically be utilized for advocacy of people with a recognized existence within the state. The paper emphasizes that a reading of the prominent issues during the pandemic reveals the vulnerability of the stateless that are deprived of the basic human needs for life — security, identity, recognition and belongingness (see Burton 1990).

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This paper begins with an overview of some of the theories on agenda-setting for understanding the dynamics of the issue in light of the extant theories in the media.

## The Media and the Agenda

A study of the role of the media in agenda-setting could help in understanding how the selection of news in the national media is very much about agenda-setting — of making the people think about certain issues while neglecting, knowingly or unknowingly, certain other pressing concerns. This could help explain which news could find space, and to what extent, while competing with a volley of news items. Current research on the impact of the media has come up with various theories on how the media set the agenda for people. The term agenda-setting, as explained by Bernard Cohen, implies that the media “may not be successful in telling us what to think, but they are stunningly successful in telling us what to think *about*” (cited in McCombs and Shaw 1990/1977: 75).

Studies on agenda-setting pick up the threads from Lippman’s concept of stereotypes (the bundle of likes and dislikes and orientations about particular objects that we carry in our minds) and how these mental images are formed by what the media choose to bring to us. Agenda-setting is defined as, “The ability of the media to influence the salience of events in the public mind” and it follows from this that: “The press does more than just bring these issues to a level of political awareness among the public. The idea of agenda-setting asserts that the priorities of the press to some degree become the priorities of the public” (McCombs and Shaw 1990/1977:75).

Scholars aver that the media tell people not only what to think but also how to think about these issues. Another concept related to agenda-setting research is the concept of priming as given by Shanto Iyengar and Donald Kinder. To explain the concept, it is based on the “process whose psychological basis is the selective attention of the public”:

When asked their opinion about political topics of the day, such as the performance of the President, most citizens draw upon those bits of information that are particularly salient at the moment rather than assessing their total share of information. (McCombs 2005:163)

A lot of empirical evidence exists to show that the media, through selective highlighting or obscuring, set the agenda before people. Yet scholars have pointed out that it is not the media that set the agenda, rather they are useful conduits for the elite to win support for the agenda which they want to highlight. For instance, Schudson criticizes the agenda-setting theories which give too much importance to the role of media, and downplay the forces which shape the content of the news in media:

...this research demonstrates that people at large will name as important subjects on the national agenda those items they find frequently in the news. But how did those items get in the news in the first place? (Schudson 2003:21)

He gives the example of the coverage of famine in Somalia in 1992. The TV coverage was regarded as an important factor that pushed the US to intervene in Somalia. However, the reality was that the coverage started at a large-scale only after politicians and senators had supported the US intervention and not before that. Thus, the politicians had set the agenda for the TV news to gain the support of people and not the TV which had set the agenda for the politicians. Danny Schechter (2003) examines how mainstream media are manipulated to propagate official views and policies. He avers that the governments set the agenda for the media in this age of “media politics,” something he

calls “media management”. The author analyses how the US government tried to manage the media coverage of terrorism after September 11.

This paper, therefore, studies the debates in the mainstream media for understating the inclusions and exclusions of issues on the national agenda. It also tries to find the reasons for this inclusion/exclusion. Finally, the paper tries to understand what is excluded, by deconstructing the discussion on issues that are included.

## **Research Method**

This paper is based on an analytical study of the archives of the *Indian Express* for April and May 2020. The month of April witnessed an increasing number of reports from human rights organizations on the plight of the Rohingya on boats trying to find refuge in some country during the pandemic. This also coincides with the period of a stringent lockdown in India as a result of the spread of COVID-19. Therefore, the news, as well as opinion columns, were studied to delineate the key themes and debates which could enable one to understand the situation of the stateless people — the Rohingya during this period. A mainstream and reputed newspaper — the *Indian Express* (e-paper, Delhi Edition) — has been selected for the study to understand how far the concerns of the stateless are given a space in the mainstream discourse. It raises questions related to who sets the agenda for the public debate, and what news is considered newsworthy by the media. For this kind of analysis, the *Indian Express* could be very useful as a newspaper that engages seriously with the news, claims to maintain high standards of journalism and, at the same time, is not seen to be closely tied to any specific ideological position.

## **The Invisibility of the Stateless: Key Issues**

The internal migrants in India, migrating from the villages to the urban centres for jobs are the backbone of the cities and have contributed to the industrial force. They have worked as low-end workers in many sectors like construction, hotels, sanitation and so on. The sudden lockdown unexpectedly brought these people out on to the roads, forcing the media and the public to take note of them. These migrants who had silently served and enriched these urban centres but remained invisible from the public gaze were suddenly visible because of their mass exodus from these metropolises, showing the extent of the crisis. The massiveness of the crisis forced the media to take cognizance of the problems of these people who had remained invisible for seventy years in the history of independent India. It is in moments of such extreme crisis that the marginalized get some space in the mainstream media and public debate. One might compare it with the news on the Rohingya in 2017 who became visible to some extent in the media when the sheer numbers of these boat people on exodus from Myanmar after violence forced the media to dedicate some space to them.

This might be understood through a discussion on who is considered newsworthy by the media and in what situations. Schuds on points out that news is not a reporting of the routine life but the journalists are more likely to cover the “unplanned and unanticipated scandals, accidents, mishaps, gaffes, embarrassments, horrors, and wonders” (Schuds on 2003:6). This aspect of news as an extraordinary event has been dealt with at length by various scholars who have attempted to explain how and why particular items are selected for news. Scholars discuss various factors that go into the selection and framing of news — events become news if they are sudden rather than long-term trends; if they occurred recently ;if they are of interest to people, are dramatic and visually

attractive; if news about them is in demand; if they are close to the audience community; if they are shocking or unexpected, refer to elite people and nations and, above all, if they are about something negative. The factor that news tends to emphasize the negative is often described by the statement, “‘Dog bites man’ is not news ‘man bites dog’ is” (cited in Palmer 2000:26).

The concept of newsworthiness can explain to a large extent how newspapers, which are inundated by events and news, select those worthy of being published and how the alternative news fails to make it to prime news. These news values are based on the concept of infotainment (information and entertainment) which derives from the profit imperatives of newspapers and their need to woo the advertisers. The net effect is that what entertains becomes news, or what is promoted by the powerful becomes news, rather than the actual social concerns which merit attention. It could be noted how an unprecedented event, for instance, a conflict, becomes news, but both sides of the conflict are not represented fairly in the news story.

Many pressing concerns were simply ignored or remained invisible in the media which gave priority to sensational news. One such issue is that of the stateless people, in this case, the Rohingya. A search of news on the Rohingya on the internet shows how the pandemic was especially a tough time for these boat people. In April and May, this had taken tragic dimensions as repeatedly reported by various international and human rights organizations. The UN reported, “Amid COVID-19 pandemic, thousands stranded in Bay of Bengal ‘unable to come ashore’” (“Amid COVID-19 pandemic”2020); Human Rights Watch also focused on this tragedy, “Bangladesh: Rohingya refugees in risky Covid-19 quarantine” reporting that “Boat people face cyclones, flooding on Bhasan Char” (“Bangladesh: Rohingya Refugees”2020). In a very powerful rebuttal of the statist politics, Amnesty International asserted, “COVID-19 no excuse to sacrifice Rohingya lives at sea” (2020). It stated, “More boats likely carrying Rohingya refugees spotted off the coasts of Malaysia and southern Thailand in recent days” and further that the “Regional governments cannot let their seas become graveyards.” (“COVID-19 no excuse” 2020)

The news at once shows the perils of statelessness during the pandemic, wherein the Rohingya remained on sea for days, starved without proper food, facing the weather and the risks of storms. However, the news paper could not find enough space for this massive human tragedy which continued through the pandemic, and the intensity of the problem went simply unreported. This also shows how the newspapers become a privileged space for statist concerns. Interestingly, many such news items found place in the online version of the *Indian Express* (“Malaysia urged to allow”, 2020; “Two dozen Rohingya”2020), but when it came to competing with other news for the space of the international page of the print version, the news lost out before other statist concerns. Though the coverage remained inadequate and failed to communicate the massiveness of the tragedy, a few news items found some space on particular days in the newspaper. For instance, late in May 2020, one such news item made its way to the international page of the *Indian Express*. This was a report on 29 Rohingya refugees reaching Bangladesh, including 15 women and six children: “Rights groups say hundreds of Rohingya are stranded on at least two fishing trawlers between Bangladesh and Malaysia. The refugees reportedly attempted to illegally reach Malaysia but failed because of strict patrols to keep out the coronavirus” (“Rohingya at sea”2020: 10).

Yet the international pages of the mainstream media in the global South remain more concerned with the news about the countries of the global North, most prominently the US and Europe rather than the news about the marginalized of the global South. This can be explained through Teun A. van Dijk’s excellent work in the field. He shows that the media in the third world countries focus less on problems in Asia and Africa and more on news of powerful countries like the US because of the influence of the foreign news agencies (van Dijk 2013). Thus, the stateless failed to

gain much media coverage because they were stateless, and the national media, with its bias to statist concerns, found it undesirable that the people who were not anywhere in the priority of any nation could be given much space.

## **The States and the Stateless**

It was in the middle of the pandemic that the states were also reminded of the perilous world that they had created, wherein groups of refugees, migrants and the stateless started looking unmanageable and uncontrollable. There were anxieties about the possibility of the spread of disease in overcrowded camps — spaces created by modern states to manage the masses of desperate people on the move, who are a product of the intrastate and interstate conflicts. These camps and sites were sealed off, becoming the unwanted and undesirable spaces which seemed to defy simple answers. There were short news items in the *Indian Express* giving information on how the government of Greece sealed off the migrant camps (“Greece: Government seals off” 2020:11) and about the lockdown in Cox Bazar in Bangladesh (“Bangladesh: Rohingya camps” 2020: 10).

Towards the beginning of the 21<sup>st</sup> century, scholars like Saskia Sassen (2002) had provided a brilliant analysis of the extended concept of citizenship in a globalized world. However, the pandemic raised question marks on the hopes for having a borderless world based on universal hospitality. A study of the discussion in the *Indian Express* had two interesting opinion pieces on the contradiction between the visions of a borderless world and the ‘reasons of state’. The issues of national interest seemed to triumph over any humanitarian concerns. In an article C. Raja Mohan (2020:9) commented:

Is everyone for himself, when the chips are down? That is not true of most communities — a village, city or a nation — where the social capital is strong enough to put the collective above the self. But when it comes to the society of states, it would seem that each nation is for itself, especially in the middle of a pandemic.

And furthermore, “One of the first steps most governments took during the current crisis was to shut down their borders. The idea of a ‘borderless world’ had gained much acceptance in recent years, but is now under serious questioning”(Raja Mohan 2020:9).

By contrast, Upendra Baxi (2020:9) raised some concern about this contradiction between the states and the stateless, asserting the rights of the hapless groups: “Nations must not ignore fundamental and overriding principles of existing international law in fight against pandemic.” Further, he mentioned the obligations of the states towards the rights of the migrants, refugees and asylum seekers, “equal health for all, non-discrimination, and the norms of human dignity”(Baxi 2020: 9). Yet, observations like those of Baxi were too few and were given too little attention to become part of the larger debates in the newspaper.

## **Home and Belonging**

The huge number of internal migrants on the roads of India, returning “home” during the lockdown became a spectacle for the media and the public. The question was, why were they returning home? An interview in the *Indian Express* captured the expressions of the migrants themselves. In its coverage of the city, the *Indian Express* had, at the top, photographs of three migrant labourers and their wearied faces, longing to go home. Upon being asked why he left for home, Sunil Kumar said,

“I had to stop working after the lockdown was imposed...it has been very difficult...if they extend the lockdown. I can't be stuck at shelter.” Ramesh Kumar said, “I tried to return home but police stopped me due to lockdown. Though this shelter has been my home for the past one year, I need to get back to my family in Jaipur” (Anand Mohan 2020a: 4). The migrants expressed how the idea of home was about their families and provided them the feeling of security and being looked after. It came out very clearly that though forced by economic circumstances to leave their villages, the migrants regarded the urban centres as mere temporary “shelters” and not homes. The feeling of security, the warmth of care, and the feeling of belongingness was lacking in these temporary shelters and, therefore, the migrants preferred perilous journeys back home to their villages, rather than the horrors of starving to death, untended, in the urban settings. An article in the newspaper by Manvendra Singh emphasized this: “Memories of hunger, fear of dying without care, lie behind migrants' long trudge home” (Singh 2020: 9).

During the lockdown, the importance of home was reiterated though innumerable news items talking about the scramble to return home not only amongst internal economic migrants but also different groups of people, including foreigners and students. There were photographs of flights evacuating foreign nationals (see *Indian Express* 2020: 7), or news of students desperate to get back home — “UP buses cut across states to bring students home from Kota centres” (Khan, Rehman and Dwivedi Johri 2020:1). The idea of “home” and the associated feeling of belongingness, thus, forcefully made its way to the public discourse about migration. Yet, the newspapers, remained unmindful of the plight of the stateless in these times who had been living in conditions of extreme destitution exacerbated by the lockdown, living without a national identity and secure jobs or incomes. They had no place to call home where they could aspire to return and nowhere to feel this belongingness and the associated feeling of security that accompanies belongingness. The absence of the concerns of the stateless on the national agenda shows how the stateless are forced to a subhuman level of existence, being deprived of the basic human needs like belongingness, security, identity and recognition.

## **Rights**

The stateless, as aptly pointed out by Chowdhory, lack all “four facets of citizenship — status, rights, participation and identity” (Chowdhory 2018:1). This can be understood with respect to the debate around the question of who could receive aid by the state in distress. The rations are supposed to be distributed on valid ration cards, while the claim to any financial aid requires identity proofs like Aadhaar and bank accounts, all of which were simply not available as options to the stateless. Yoginder K. Alagh in his article titled “World is not a village” remarked, “So, the government should not insist on Aadhaar and bank account numbers and biometric identification for handing over the life-sustaining grain or income payment. Reform can wait, death does not. Leakages are inevitable at this time, but the part which reaches will be literally life-saving.” (Alagh2020: 8). This concession, suggested by the columnist, was for those who have not been able to procure identity proofs due to their marginalized situation in society. Yet, this discussion can again throw more light on the plight of the stateless who have no locus-stand to procure any identification documents and remain outside the realm of the obligations of the state towards its citizens. The stateless are neither entitled to any documents, nor are they granted (except for the UN-recognized refugees) any recognition or protection by the state, and they continue to live in the dark, liminal spaces of illegal existence.

Even for those who were living as recognized refugees in camps, aid is not about any entitlement but charity that is doled out by the respective states, to the extent they determine to do

so. In his article in the *Indian Express* titled “Beyond solidarity”, Pratap Bhanu Mehta (2020: 8) pointed out the distinction between the language of rights and the language of charity, “The migrant labour and the unemployed will be demanding their rights, not our mercy.” He outlined the difference between being a subject and being a citizen: “Compassion speaks to the language of subject hood, justice speaks to the language of citizenship. Justice allows you to be angry at the state when you see injustice. Compassion is a disfiguring appeal to someone’s power” (ibid.). Thus, speaking about justice, rights, rightful claims and obligations, Mehta comments:

So, a justice-based solidarity will ask a different question. It will not ask: What is the bare minimum we can get away with to avoid starvation, or social unrest? The question is, what does the state owe as a matter of obligation in these circumstances? (Mehta 2020: 8)

These are some very important terms in the discourse on rights and citizenship. However, when the hierarchies within the citizens seem to be rampant, one could well imagine the plight of the stateless who do not have even the support of the legal structures to ensure any rights or obligations. The right to a life of self-respect for the non-citizens becomes inapplicable in such cases.

## **Vulnerability**

The stateless of the world remained the most vulnerable populations during COVID-19, yet the mainstream media simply marginalized their concerns. In trying to find an answer to the question about the plight of the Rohingya living in India, only a single report (in the entire period of two months) of their living condition related to a slum could be located in the newspaper. The reporter pointed out how these people lived amid medical waste full of surgical masks, gloves, syringes. A woman was reported saying that without work her children were starving (Anand Mohan 2020b: 4). It became amply clear in the discussions and news on the urban poor that the lockdown resulted in lack of work, which was more of a concern for these people than the disease. Again, the plight of the stateless who cannot even claim the right to decent work and wages remained hidden from the discussions. Here, an article by Amartya Sen (2020: 8) in the *Indian Express* might be cited which said that during the pandemics, “the more affluent — may be concerned only about not getting the disease, while others have to worry also about earning an income....” He finds the solution in encouraging a participatory democracy where the government would work based on consultation and participation with the help of a free press. Here again, the question arises, what are the prospects that the participatory democracy holds for the stateless, who have no locus-stand to participate in any country’s democracy by virtue of being non-citizens.

The debate remained absent from the mainstream media, when overcrowded refugee camps of Bangladesh became a major concern, with the possibility of an uncontrollable spread of COVID-19 amid the poor medical facilities and extremely poor sanitation conditions prevailing in these areas. They also remained zones that were denied basic access to information because of the ban on internet in their area. With some news coming in from the international media like the Agence-France Press, the newspaper gave some space to a news item on the international page of the *Indian Express* on the Rohingya in Bangladesh. This was news on a complete lockdown of the Cox Bazar refugee camp — a crammed camp with people living in canvas and bamboo shacks, poor medical facilities and lack of protective gear. The news took note of the “Internet ban in the Bangladesh camp has also led to the spread of rumours...” (“Bangladesh: Rohingya camps”, 2020:10). However, this kind of news neither led to any further debates nor more news reporting on the same.

## Dignity

Several articles appeared in the newspaper on the plight of the migrant labourers during the pandemic. Some of these articles can be read for understanding the discourse on rights and dignity and how the stateless bear the double burden of not having the “rights to have rights” (see Chowdhory 2018: 1). The use of expressions like “establish migrants as full citizens” in an article shows how, despite the claims of equality, citizenship is hierarchical. In this article Kapur and Subramanian indicated how the, “Differences not just in the levels of income but in their volatility as well as differential access to social insurance (healthcare, pensions) distinguish these two classes” (by the two classes the authors meant organized and unorganized sector workers) (Kapur and Subramanian 2020: 7). While access to rights and a dignified life remains a dream for a majority of the citizens, it can well be imagined where the non-citizens would stand in the hierarchy.

The news during the lockdown on migrant labourers shows how the people at the bottom of the economic and social ladder are valued not for being human beings, but for the utility that they serve. Many states were concerned about this exodus as it could result in problems of the availability of labour and could have tremendous economic implications. This anxiety reflected in articles and editorials as well, for instance, an editorial read, “Exodus of migrant labour from cities is an enormous human crisis, and an impending economic one” (“Parts of a whole” 2020: 8). There were instances of disinfectant sprayed on the migrants, with pictures of migrants being treated like herds of animals, again starkly revealing how economic status confers the right to be treated with dignity (Ghosh 2020: 11).

Further, numerous incidents of internal migrants dying on the way to reaching home due to fatigue and hunger, being mowed down by trains while sleeping on railway tracks, committing suicide out of anxiety of having no work, meeting with accidents on highways while walking back home — all point towards the hierarchies in the popular imagination of whose death is acceptable. The ‘structural and cultural violence’ inherent in these deaths also show how, in the discourse on the migrant problem, the question of the sanctity of human life was absent. There was some discussion in the newspaper about migrant deaths from this perspective. In “The cure that lasts”, Matthew Varghese observed, “While every death diminishes us as a society, I am more worried about all those marginalized for whom existence is no more than being on the edge of extinction” (Varghese 2020: 11).

This discussion also shows how the media might give some space to such views but they fail to integrate them as part of their news values, by giving inadequate attention and coverage to the tragedies in the life of many of the marginalized groups. With the stateless, the magnitude of the problem was much more, because their death count remained outside the ambit of any census for citizens. As non-citizens, their death was a fact to be accepted for its inevitability, or simply to be ignored — these were the people standing outside the narrow circle of nationalist obligations. The dignity of human existence and the sanctity of human life seemed to be concepts inapplicable to the stateless.

The stateless, at the best, are considered objects of sympathy rather than as people deserving a dignified, self-respecting life. They are typically seen to lack an agency and remain mere recipients of aid, denied the opportunity to make their life choices. The Rohingya in India also remained one of the most disempowered people, bearing the burden of stereotyping and ‘othering’. Even in the time of the pandemic, they were accused of being potential carriers of the disease and stigmatized. While the *Indian Express* carried a news item on the accusations on the Rohingya (Verma 2020: 6), yet the



news or views to counter these seemed to be lacking. This kind of alternative coverage could be found in the media like *The Wire*: “COVID-19: Rohingya refugees in India are battling Islamophobia and starvation”. The report underscored, “The refugees will not be covered under the relief measures announced by governments and their settlements are prone to outbreaks if even a single person is infected” (Bose 2020).

## Conclusion

This paper studied the coverage related to the Rohingya in the *Indian Express* during the period of lockdown in the months of April and May. While newspaper had some very intense discussions on the migrant problem and this human tragedy during the lockdown, the concerns of the stateless were relegated to the margins by the newspaper. Some of such discussions on the humanitarian concerns have been used in the paper to flag important themes — the idea of home and belongingness, the question of rights and dignity and the problems associated with vulnerability, stereotyping and marginalization of the stateless. Through this analysis, the paper points out that the COVID-19 pandemic has raised serious questions about the entire statist discourse which is focused on giving priority to one’s national interests and security to the neglect of the situations of an increasingly interconnected and interdependent world.

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