Management of Civil Liberties During Pandemic

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Abstract
The degree of infection and consequent deaths have differed vastly, but Covid-19 pandemic has spared no country. The focus of this article is not to analyse India’s success in responding to this global pandemic but rather to draw lessons from this experience for effective public management in other fields of development. There seems to be an emerging consensus that civil liberties and public management matters. In a public health emergency, the primary responsibility of the government is to balance the foundation which paves way for equity, public welfare, individual and group rights, and a smooth functioning of democratic processes. Specific to the global crisis, the article focuses on how crucial it is to have a broad and free dialogue about civil liberties. Several countries are imposing some or the other form of problematic restrictions on civil liberties of an individual during the Covid-19 pandemic, leading to changing societal scenarios in a negative manner. Therefore, the article highlights the expertise of new public management and deployment of enhanced role of society stakeholders defence of civil liberties, especially in the area of social justice and misinformation.

Keywords
New public management, civil liberties, India, Covid-19, coronavirus pandemic, government performance management

Introduction
The coronavirus disease in December 2020 caught most of the nations in a grappling situation. A few months after the outbreak, many countries were desperately searching for solutions to battle with it. Covid-19 prompted serious political,
economic, social and legal ramifications. As the coronavirus pandemic continues, many countries face several challenges requiring not only extraordinary responses but also attentiveness to prevent the abuse of power during the crisis. History confirms that in the times of crisis, civil rights and civil liberties are at the greatest risk. As Friedrich Hayek (1979) puts it in his book *Law, Legislation and Liberty*, ‘‘Emergencies’’ have always been the pretext on which the safeguards of individual liberty have been eroded’. Violation of individual rights can have a corrosive effect on democracy. It is critical that we learn from our nation’s reactions to those situations in order to protect democratic society during this pandemic. Otherwise, crises may lead to an excuse for the permanent erosion of individual rights and liberties, and even a backslide of democracies. When facing a national threat, the government often rushes to put forth policies to defend the public and the national interest. These situations present challenges that can lead to poor policymaking, therefore requiring a prior effort for strong roots, nurturing of communities and strengthening of human rights. For example, Taiwan has proved itself as an entity that has successfully battled the pandemic among the competitive world order. Its futuristic plans included QR code with every traveller so as to gauge the infectious risk-based health history of the person, health insurances covering 99% of the population assuring that ‘life’ and ‘health’ are the foremost priority in the country and importantly the use of media the greatest tool for alerting common man on the deadly disease. Some of its strategies were a result of the earlier outbreak of SARS outbreak in 2003. Underlying their Covid-19 responses are shared values, shared responsibility and a goal of securing capabilities for all. Many countries over the period in their fight against the unknown virus have developed a robust public health system supporting and maintaining resilient communities and individuals; they fulfil these moral obligations to safeguard human flourishing and reduce threats to it. In particular, they exhibit four major characteristics of a justice framework for a resilient Covid-19 response: governing for the common good; shared responsibility for scientifically grounded systems; rational, compassionate and transparent communication; and ethical leadership and trust (Ruger, 2020).

In addressing the Covid-19, authorities in successful countries have addressed their populations with transparency, honesty, reason and compassion. This approach is the key that has fostered national unity, the principles and practice of impartiality and objectivity. Regular news conferences have provided reliable, accurate information and scientifically grounded guidelines for action (Chen, 2020). The responsiveness of the governments requires a proactive approach considering that every person’s life has equal value and the goal is to save everyone. Therefore, the management of pandemic requires utmost transparency and accuracy, and news conferences acknowledging the disease’s scope and severity rather than the spread of misinformation. This would ensure that the citizens felt safe rather than fearful, observing government actions that were smart, effective and responsible. The study focuses on explaining the two components of civil liberties, social justice and misinformation, and their management during pandemics, suggesting ways by which they could be fit for the changing scenarios in the Indian settings.
Thinking About Justice in a Larger Context

The constitution of India envisaged the concept of social justice with the view that everyone deserves equal economic, political, social rights and opportunities. This encompasses the establishment of an egalitarian social order wherein there exists no discrimination among individuals on the basis of caste, religion, race, sex or place of birth. It is the balance between individuals and society measured by comparing distribution of wealth differences, from personal liabilities to fair privileged opportunities and resources. It has always been the case that the socially disadvantaged and weaker sections or groups have fared the worst of any population during any crises, influenza or pandemic.

India faces the threat of an extremely serious Covid-19 (the infectious disease caused by severe acute respiratory syndrome coronavirus 2 SARS-COV-2) outbreak that has far-reaching consequences. India being the world’s second most populous country of nearly 1.4 billion, having the largest share of the potential infections and deaths, has had difficulty in terms of practicing social distancing. To contain the outbreak of Covid-19, the Indian government imposed a country wide lockdown for 40 days initially and extended it by eight weeks with gradual relaxation and unlocking. By equalling the Covid-19 epidemic to a national disaster, the National Disaster Management Act, 2005, came into play and enacted laying down the plans, guidelines and policies to prepare India for the pandemic. Lockdown, containment plans, social distancing guidelines, strategies for Covid testing, isolation strategies and contact tracing and so on were few of the important practices taken up as a part of pandemic management. The instant application of such practices not only reflected the power of leadership and administration duties but also highlighted the principles of good governance.

The concept of social justice is better understood as a relative concept of human rights. It places a particular emphasis on improving the lives and providing opportunities to individuals who have been marginalised/side-lined or treated as the ‘other’ in a society. The uneven effects of the pandemic on such individuals, or sections of people have doubled for numerous reasons, considering the already prevailing health, social, economic and environmental inequities. There are instances of some sections and communities in India falling in near trap of facing social exclusion due to Covid-19. Though the word ‘social distancing’ might seem logical and recommended by many experts and governments, in the Indian context due to the history of caste practices, this phrase infers a completely different meaning. This is because of the stigma and the psycho-social implications of being an outcast which adds to the trauma in the present scenario. Vulnerability in the era of Covid-19 is more than the risk of contracting the virus. Although vulnerability in the present context is a dynamic concept because any person might not really be vulnerable at the beginning of the pandemic, but later could subsequently become vulnerable depending on the government response. Vulnerable could be those who are at the receiving end of the short-term and long-term effects of the pandemic, but whose needs might not have been considered in the planning of local responses and relief. Therefore, knowledge and understanding of social and other community vulnerability is critical for a Third World country like India.
Pandemic has made discernible blatant health, economic, gender, caste-based and educational inequalities globally but these inequalities were more prominent in India especially for the poor, the homeless, socially disadvantaged migrants, refugees and those in informal settlements.

Currently, India’s top 10 per cent hold as much wealth as the bottom 70 per cent… [and] India’s private companies are almost exclusively upper-caste owned. The richest one per cent has four times the wealth of the bottom 70 per cent, in large part via a takeover and monetization of the land, waters, forests and resources that were the life blood of those at the bottom end of the caste spectrum. (Himanshu, 2020)

**Health Equity: Need of the Hour**

Coronavirus brings into sharp focus the privilege to wellbeing as a basic right in India. At the centre of global common liberties norms, and without a doubt a critical part of Article 21, which has placed an obligation on the state to maintain the life of the individual. In case of the pandemic a significant piece of the worries identified with maintenance of wellbeing is circled around testing and with time will have focus on vaccination. The Covid-19 pandemic has highlighted various constructs that intersect with multiple factors to influence which population groups are most exposed to Covid-19 infection, including ethnicity, migrant status, class and gender (Paremoer et al., 2021). Many individuals in perilous forms of work have limited access to leaves and healthcare benefits and services. With often low wages they cannot afford passable quality of water, food, housing and sanitation. Hesitations with regards to quarantine if they contract Covid-19 may be a shame to them because of the already existed forms of social exclusion faced by them. Moreover they cannot afford to lose income and may not have the provision of working from home. Just after a national lockdown was announced on 22 March 2020, huge numbers of migrant workers in many cities found themselves without jobs, unable to sustain themselves and returning to their villages. Unemployment has been increasing day by day particularly in the informal sector, making it clear that economically vulnerable individuals are being at the brink of sacrificing disproportionately more for public health measures due to no information about the virus and the fear associated with it as well as no income to access it. Further, the lockdown and unavailable health services in many rural areas has also made it difficult for infected individuals to access health services. Although many relief packages have been announced by the government, what is more important is the fact that the effectiveness of these safety nets will depend on the sufficiency of the relief package on reaching the neediest groups, with monitoring of the efficiency in delivery system. Through various studies and researches, it is known that safety net programmes and policies in India are commonly inefficient and often miss the targeted section. Here, it is important to note that these health relief packages and measures are intended only for a short period of time until the effects of Covid-19 are felt. The economy, healthcare system and the individuals will take some time to recover and the effects related to deprivation will stay long after the pandemic is over. Usually, epidemics have proven to be predominantly
punishing on the economically vulnerable. The vulnerable population direly expects admittance to general, free medical care fundamental and Covid-19 explicit therapy and care—essential.

Part IV of the Constitution—the Directive Principles of State Policy is an anchor for state action:

[T]he state is under obligation to minimise inequalities – in income, status, facilities and opportunities amongst individuals and amongst groups residing in different areas or engaged in different vocations.¹

The Directive Principles of State Policy are a manual for governments. In finding our way through this emergency, these standards are ‘principal in the administration of the nation’ (Article 37). In its striving for civil liberties like social justice and resource allocation or a social order covering domains such as justice, social, economic and political shall inform all the institutions of the national life, one focused on promoting the welfare of the people, it is the directives that provide the constitutional precepts one zeroed in on advancing the government assistance of the individuals, the directives give the sacred statutes. Specifically, the state is under commitment to limit imbalances: in pay, status, offices and openings among people and among bunches living in various regions or occupied with various employments (Article 38).

### Misinformation: A Whole New Pandemic in Itself?

Misinformation on social media in today’s time has been growing faster than the spread of coronavirus diseases generating harmful consequences on health amid a disaster where the unknown mutable has already caused a stir. Citizens across the world have become familiar to the severe damaging degrees of Covid-19 due to the fast communication and publication. However, a massive disaster in the 21st century is not immune to the spread of misinformation. Director-General of the World Health Organization (WHO) declared that the Covid-19 epidemic is going through an ‘infodemic’ (shorthand for information epidemic) of misinformation. On 28 March 2020, in line with the WHO, Antonio Guterres, the Secretary-General of the United Nations, tweeted that ‘Our common enemy is Covid-19, but our enemy is also an “infodemic” of misinformation’ (Barua et al., 2020).

The modern-day media network is considered as an outstanding passage for information dissemination. Unfortunately, social media does not always share correct information. Information about Covid-19—good and bad, proven and speculative, true, false and unverifiable—has been escalating from the onset of the pandemic. In India the most common rumours related to Covid-19 illness are about transmission, mortality and control measures. Adding to it a list of food and vitamins to boost immunity, some reports focused on miracle treatments, such as drinking a sodium chlorite and citric acid mixture, bleach, alcohol or cow urine and so on. Such misinformation can potentially have serious implications on individuals and community consequently avoiding medical care, contributing to the expansion of the epidemic via community transmission. These conspiracy
theories can stretch to an extent where it can also discourage people on getting vaccinated. Twelve people, including five children in India, became sick after drinking liquor made from seeds of thorn apple plants (commonly known as *datura*), a rumoured cure for Covid-19 (Jayaraman, 2020). Such are the groups of people who are unable to transit smoothly out of such crises and are unable to keep a forefront of actual information, easily falling prey to the claws of ‘fake news’.

**Tackling Misinformation**

The crisis of fake news is much more severe in India mainly because of the country’s fast growing social media base. With 376 million people using all kinds of social media platforms, India is one of those countries which provide a comfortable space for most social media companies because of its quickly growing internet base. However, in comparison with other countries, majority of Indians are more vulnerable to fake news and disinformation campaigns. Over 60% of Indians are said to have seen fake news online against the global average of 57%, according to findings of a survey by Microsoft (BI India Bureau, 2019). The Information and Technology Ministry, Government of India, have come up with stricter guidelines for social media intermediaries that will make it mandatory for platforms to support in identifying the ‘originator’ of ‘unlawful’ messages and circulation of fake news. The Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules, 2021 is an effort to deal with issues such as the constant spread of fake news, abuse of these platforms to share morphed images and contents related to settle corporate rivalries. However, there is another side of the story wherein many critics point out that the guidelines undermine the civil liberties of the individuals. They prove to be an attack on the principles of open and accessible internet and violate the right to privacy and free speech of users, particularly in the absence of robust data protection law in India at present.

With the ongoing pandemic, India has been trying to deal with the parallel ‘infodemic’, which has been spreading at a rate such that it could put pandemic to shame. With instances of such false information leading groups of people assembling in large gatherings in spite of the lockdown and several guidelines, many government bodies and departments have taken an understanding of the situation and have chosen an approach of their own to avoid mishaps as a result of misinformation. For example, Bureau of Police Research and Development functioning under the Ministry of Home Affairs have released guidelines for law enforcement agencies on ‘how to tackle false information’ which includes provisions of fact checking and checking for fabrication of images and videos before their circulation, with the aim to also identify various sources and vectors of disinformation (Vibhuti & Shubhankar, 2020).

**The Economic and Social Costs of ‘Infodemic’**

During uncertain difficult times, there is a tendency of incorrect news spreading like wildfire, because of the fear to face the fact. A similar situation during the
pandemic has caused a massive damage across the country. The poultry industry suffered a massive brunt of misinformation. The fake news about non-vegetarian food, particularly how consuming chicken could lead to the Covid-19 infection, resulted in hundreds of poultry farmers culling chickens’ worth crores of rupees or in some cases set them free. Due to the fall in demand, wholesale price of chicken had dropped by as much as 70%, and chicken farmers across the country incurred a staggering ₹2,000 crore total loss due to fake rumours (IANS, 2020). Such misleading information has had a dire consequence for minority communities who might be involved in various business sectors. In several parts of the India, at the start of the pandemic there were calls for economic boycott of Muslim business. In an article covered by the British Broadcasting Corporation (BBC), a Muslim vegetable seller shared how his business suffered just because a fake video which got circulated on WhatsApp and went viral that showed a Muslim man spitting on bread (Menon, 2020). In fact, a series of forwardings on social media containing misleading information and fake news spread like fire after the Tablighi Jamaat incident in New Delhi, with false claims about Muslims purposely spreading the virus. There were attacks on Muslims in all parts of India furthering Islamophobia and targeting the minority. Misinformation can have a really negative impact on those members of the society who already find themselves the targets. Such incidents have been a particular problem in India during the coronavirus pandemic, where reliable sources of news are often drowned by unconfirmed information online.

**India’s Management of Misinformation**

India has been taking all the essential safeguards on the forefront of checking and controlling the spread of misinformation. The government in its first notifications on this issue came out with a policy stating that an entity publishing any news/information on coronavirus would be required to obtain prior permission from the healthcare ministry before such news/information can be published. This notification came out on 12 March 2020, that is, two weeks before the lockdown started.\(^2\)

Besides, the government has been legally proactive to impose a ban on misinformation being spread. The Government of India sought orders from the Supreme Court of India on 31 March 2020, stating that no media outlet shall publish, print or telecast any news on the novel coronavirus before ascertaining such facts from the mechanism provided by the government. The government had submitted that though creating panic is a criminal offence prescribed under the Disaster Management Act, 2005, necessary directions from the Apex Court would further protect the nation from any possible consequences which may result from a false alarm which has the potential to create panic and chaos among the citizens.

In this regard, an order by the Hon’ble Court stated that the Court has no intention to interfere with free discussions; however, the media is directed to refer and publish only the ‘official version’ of the developments regarding the coronavirus outbreak. This implies that no speculative findings should be propagated. The Court further directed that ‘A daily bulletin by the Government of India through all media avenues including social media and its forums to clear the doubts of
the people would be made active within a period of 24 hours, as submitted by the Solicitor General of India' (Vibhuti & Shubhankar, 2020).

There are already a few existing laws in India such as the Information Technology Act, 2000 and the Disaster Management Act, 2005, to manage misinformation. But the government is now better prepared to deal with this problem.

**Reforms**

Agreeing on various goals and objectives is certainly not important for any process but being able to measure them without uncertainty is a positive good. (Gilmour, 2006). In the case of coronavirus, the metrics for success are clear and unambiguous. The bottom line for ultimate success or failure in dealing with this pandemic is the number of deaths per capita from this virus. A country’s leadership is judged ultimately by this single bottom line. Number of people tested and number of people infected are intermediate indicators for working out an effective strategy to manage the bottom line: How to reduce total number of deaths from coronavirus in a country. In numerous government activities, the accessible data and information are suspect and the public authority tasks are misty in any event in many developing countries. In India, the NITI Aayog (National Institution for Transforming India) used with great success a similar benchmark competition among states to improve Governance and the Ease of Doing Business index for individual states (Kiran, 2019). It also used a similar benchmarking competition for innovation.

Powerful, convenient timely communications is a significant piece of viable public policy, implementation and execution. As the colloquialism goes, a well-informed customer is a happy customer. Any public policy, regardless of whether social distancing or lockdown, resembles an idea (or a thought) that should be offered to people in general. One may have an extraordinary public policy, yet on the off chance that the incentive isn’t obvious to residents, they won’t uphold it. One knows extraordinary thoughts and plans are of little use if the public authority can’t impart or communicate them to citizens. Hence, communication should begin from the top. Luckily, the prime minister, who has an unparallel capacity to convince people, told the world the best way to do this successfully to a nation of 1.3 billion free individuals.

If the policymakers consider the points below for designing accountability systems for public sector, India will open the economy and will be equally successful in reducing the suffering due to the economic slowdown, a collateral damage of the fight against Covid-19:

- Clarity of goals and objectives
- Transparency of data and operations
- Explicit and unambiguous assignment of accountability
- Incentives to perform
- Communication in public policy implementation

These points are at the heart of the emerging Generally Accepted Performance Principles (GAPP) in the so-called field of new public management (NPM). It is therefore everyone’s hope that India will apply these same principles.
Misinformation costs lives. Without the appropriate trust and correct information, diagnostic tests go unused, immunisation campaigns (or campaigns to promote effective vaccines) will not meet their targets, and the virus will continue to thrive (WHO, 2020a). Misinformation can be a combination of accurate and inaccurate information. There can be some information from reliable sources with some from unreliable sources. Governments that follow a comprehensive approach to incorporate public engagement in political processes, such as debates on public policy, increase transparency and facilitate transparent decision-making. Because of its openness, dialogue and participatory nature, social media offers prime advantages in providing synchronous and collaborative contact between governments and people, giving new impetus to interaction among people. Globally, government organisations have used social media for creating awareness and encouraging citizen during a crisis. Local government officials in the United Kingdom used Twitter features, such as hashtags, to communicate with the general public to explain rumours and identify perpetrators during the 2011 riots. Indonesian government agencies used Twitter to convey early warning communications with people during the 2012 Tsunami, increasing their performance in public information services. In the United States, government officials used Twitter during the 2012 Hurricane Sandy crisis to involve people in the creation of public services. However, they primarily engaged stakeholders, including individuals, peer government departments and media outlets. The Chinese government has provided mental health services across many platforms, including hotline, online counselling, online course and out-patient counselling, but depression and anxiety should be given more attention (Srivastava et al., 2020).

Social media must be used to reinforce the public health response. Public media, newspapers and radio stations put the information to fighting false news by addressing theories of conspiracy circulating at the time. Timely monitoring of risk networks and public social media interactions will help promote awareness of stakeholder views and assist in developing the policies needed for successful risk mitigation and resilience, thus ensuring efficient management of disastrous events. Social media analytics should help government authorities to exchange and comment on real-time information about ongoing infectious disease threats. Effective communication between the citizens and the public health authorities and/or governments through the media and social media platforms are among the essential components of successful pandemic responses.

**Conclusion**

The notion that humans have natural, inalienable rights is the foundation of liberal democracies (Rawls, 1971). For many governments around the globe, providing adequate health and hygiene benefits, freedom of speech, right to due processes of achieving the right information and so on have been the defining feature for protecting the civil liberties in times of crises. So far, whenever societies have faced any crises upon them there has been an imbalance in the trade-offs between civil liberties and the well-being of individuals in the society. Since the announcement
of Covid-19 as a pandemic, governments have been trying to formulate policies in order to protect the societal well-being but by provisionally restraining civil liberties. Curtailing these liberties in times of crises is often considered a crucial part for an effective policy response. However, it must be realised that creating emergency/temporary policies during crises may sometimes become an excuse for eroding rights in the long run (Repucci, 2020). Given the scale of the effects of pandemic on countries and the actions adopted by governments to curb it, the Covid-19 crisis has provided a unique opportunity to comprehend as to how individuals perceive the trade-offs between civil liberties in times of crises and expect an improved public health condition. It is significant for countries that lack advanced media communication strategies or require more efficient and ‘controlled transparency’ on the epidemic to especially protect the communities that are more vulnerable and lack precise and authentic information during the outbreak (Depoux et al., 2020). Risk communication which involves exchange of real-time information, and dialogues among experts and individuals facing threats to their economic, health and social well-being, is now also a part of the regional emergency response and preparedness programme for health emergencies. The definitive purpose of risk communication is to empower individuals at risk to take informed decisions to protect themselves and their dear and near ones. Strengthening the capacity of risk communication is an essential component of global efforts to enhance global health security (Frost et al., 2019). For the current Covid-19 pandemic, the advancement of a real-time information sharing system is essential, which analyses the data from a variety of social media platforms in several languages globally. In a democratic framework, attempting a mechanism to tackle a public health crisis requires a close coordination between various stakeholders, political/civil society leaders, the executive, industry experts and the people. This mechanism solely weighs on transparent decision-making and mutual trust. As the pandemic is following a cyclical course, the pursuit of maintaining civil liberties and fulfilling individual agendas by majority sections has led to a dearth of trust in a society and moreover prevented a cohesive response. Restrictions which earlier were seen as practical and necessary practices followed by government have lately failed to convince citizens on social cohesion. One thing which is clear is that the pandemic has led to the fraction of individuals in many societies to live in fear, primarily due to the health risk exposure and the erosion of civil liberties. Insouciance on the part of society stakeholders is the shadow pandemic and therefore needs its own set of mitigating strategies to collectively protect civil liberties.

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Notes

1. See Baxi (1969) for a detailed exposition on the ‘textual anchorage’ of the Directives in the Constitution, making state action rooted in the Directives possible.
2. Supreme Court of India, Circular, 14 March 2020. https://main.sci.gov.in/pdf/cir/covid19_14032020.pdf

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