ASSERTING DIGNITY IN TIMES OF COVID
Transgender Community's Experience of Battling Covid in Bengaluru, Karnataka

Alternative Law Forum
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With deep respects and humility, we the transgender community salute from our hearts the departed soul – Rajeshwari. A simple, straight forward person who could befriend anyone. She was a friend to many in the community. She worked extensively through the COVID times trying hard to get relief for not just the transgender community but all the marginalized communities who lived in the slums of her area in the south of Bangalore.

Rajeshwari, a believer in God had built a temple near the slum where she lived with many transgender community people. She was going through a rough patch which was worsened by the anxiety of providing relief for people around in her area. By the end of the lock down she slipped into severe depression and ill-health. While many people took her to different hospitals for her treatment, there was no proper diagnosis. It was said that she was COVID positive, then the doctors said that she developed some issues in her liver, then they said jaundice – neither was there a conclusive diagnosis nor was she given proper treatment. She passed away on 24/09/2020.

We dedicate this report to Rajeshwari who was an active participant in many struggles like Naanu Gauri, Udupi Chalo and many more - a woman who never desired to become a leader while leading a life full of compassion for all people who struggled to survive in this world.
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We started working with the Alternative Law Forum on the Study on Discrimination in the year 2013 to develop a holistic understanding of discrimination. To theorize on this understanding, we started gathering experiences of discrimination from different marginalized communities ranging from caste, class, labor, region, religion, gender, sexuality, color, etc along with community activists. In this process we have often responded to the current issues, such as the Uniform Civil Code, Triple Talaq, Transgender Persons Protection of Rights Act etc especially during the right-wing rule in the country. We also wrote a report called “Conversations of Caste Discrimination in South India”¹ published by Alternative Law Forum. Though our aim has been to draft a bill of anti-discrimination, we wanted to build the draft based on the experiences of different activists and members of marginalized communities. In order to address the challenge of discrimination we looked at instances of discrimination through an intersectional lens.

While we continued our study on discrimination for the 6th year in Alternative Law Forum, we were exploring many issues, especially the link to ‘dignity’ and ‘equality’ of discrimination. By December 2019, the Anti CAA and NRC protests against the unconstitutional Citizenship Amendment Act (which demanded proof of citizenship from every individual) broke out all over the country which saw participation from gender sexual minority groups and transgender community members. Given that many transgenders often do not have proper ID proofs (as the state has been delaying the process of giving proper identification) the CAA would render many of us devoid of our citizenship.

Three months later, the COVID-19 virus broke out and many of us got stranded at home in the lockdown. While many of us from marginalized sexualities and genders struggled through the COVID lockdown; some of the community members plunged into relief work extensively. In one of our discussions with Arvind Narrain and Mohammed Afeef from Alternative Law Forum, we started thinking through how there were many reports on different marginalized communities struggling through COVID lockdown like migrant workers and others. They strongly pushed us (Rumi and Sunil) to start looking at how transgender community battled the pandemic and we decided to work on a study.

We started thinking as to how we can connect with this issue with the ongoing study of discrimination. All four of us (Arvind, Afeef, Sunil and Rumi) went through a series of questions which we discussed at length. One of the first questions that came to our minds was ‘how
do marginalized genders and sexualities’, with the very specific and unique challenges of the community ‘survive through a pandemic’. We discussed about the numerous ways in which the community was discriminated in the relief distribution and the difficult struggles that the community had to go through. Initially we thought that we will go to different spaces where the community lives and speak to people about how they are managing to survive as their survival was dependent upon life on the street. This we felt was vital as the lockdown hit the question of livelihoods directly. During the lockdown, we personally could not get into relief work due to health issues, but we did connect the community relief workers to the donors and funders. When one of our transgender friends actually could not survive the crippling effects of the pandemic while being intensely involved in relief work, we started realizing how many of our transgender community friends who were struggling to survive were themselves involved in the relief.

This led to another layer of discussion about why our transgender community friends plunged into relief work while they themselves found it extremely difficult to survive without salaries or any support. This came from embodiment of the sense of fraternity that Ambedkar speaks in the constitution. The sense of fraternity extended to different marginalized communities and not just marginalized genders and sexualities. This led us to think further about the character of relief work, whether it was imbued with dignity or not, whether relief work regardless of who it is from, is it charity or the right of a marginalized community person to receive support. Then we discussed different questions of the pandemic and unplanned lockdown by the government; this included, (mental/physical) health.
issues, aspects of survival, salaries, employment (including sex work and Mankti (blessing and receiving money for that) and smalltime jobs like delivery services and NGO employment) addictions, quality of relief work by donors, pandemic and right of mobility for relief work, pandemic and right to life etc.

We then decided to speak to a series of our friends who were intensely involved in relief work rather than just reflecting on the number of community members suffering hunger or destitution. Of course, hundreds of our community members (marginalized genders and sexualities) were left with literally nothing to ‘live’. Yet, each one of them struggled hard to demand dignity even in situations of extreme hunger, poverty and forced displacements. After a series of interviews, we met these magical women from the women’s movement who are also allies of the persons of marginalized sexualities and genders – our dear Madhu Bhushan and Shakun from CIEDS.

Through our conversation with them, we realized the tone of the report. The tone was that of **DIGNITY** and **RESPECT**. They said in the conversation that it is the assertion of dignity that is more important than proclamation of discrimination, which is very difficult.

Yes, true, whether it is NGOs, media or otherwise we often subconsciously encourage the marginalized communities to follow the narrative of being victims rather than assert their dignity. After the conversations with Madhu and Shakun, we revisited all
the conversations and spoke to all the marginalized genders and sexualities community members again. This gave us the impetus to rewrite our report with renewed zest about how our marginalized genders and sexualities community braved the pandemic through the unplanned lockdown.

In this report we have tried to capture the assertions of dignity of our community friends in the situation of unplanned lockdown, relief work, and post unlock. We also immensely thank all our marginalized genders and sexualities community people for not just speaking to us about these experiences but also sharing the emotions and feelings of our existence – a shared existence.

—Sunil Mohan R and Rumi Harish
Methodology

We recognize that writing is an act of power. Similar to the methodology adopted in writing the publication - Conversations on Caste Discrimination in South India, this report relies on the experiences of members of the transgender community, shared over a series of conversations. The report focuses on understanding their struggles and assertions of dignity at the time of COVID-19 pandemic.

This tone of claiming rights is drawn from the vocal, empowering assertions of dignity that were exchanged in conversations. It is a unique report that sews together both the voices of the transgender community in Bengaluru, Karnataka * as well as the lawyers working with the community members. Both these voices are retained as is and are the reason there are variations in the language of the report, which we believe is a reflection of a truly collaborative effort.

* This report also includes account of one of our friends, trans rights activist from Chikkaballapur. He was deeply involved in carrying out relief work for thousands of people from marginalised communities in and around Chikkaballapur. Along with this, some activists and their organisations also supported relief work extensively in other districts of Karnataka, their experiences are also recorded.
On 24th March, 2020, Prime Minister Narendra Modi declared a nationwide lockdown for a period of three weeks. On 14 April 2020 that lockdown was extended for a period of another three weeks till 4 May, 2020. This was further extended to 17th May 2020. In effect the Indian economy was shut down for a period of almost two months.

The impact of this decision was disastrous on those in the most precarious position, namely those eking out a livelihood in India’s informal economy. It is crucial to note that in India, over 90% of the population is employed in the informal sector.

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The transgender community is estimated to contribute a significant amount of their labor to this informal sector.

A study conducted by the Kerala Development Society on behalf of the National Human Rights Commission of India found that 96% of transgender persons are denied jobs and are forced to take up low paying work or carry out street-based work such as badhai (ritual blessing), sex work, and begging. 6

COVID-19 unraveled an unprecedented health crisis and livelihood crisis which was aggravated by the state imposition of a complete lockdown. While the impact of the health crisis has received extensive coverage, the impact on life and livelihood crisis created by the lockdown on particularly marginalized communities has not received sustained attention in political circles. The effect of this decision was severe on members of the transgender community and sex workers who relied on street-based livelihood. 7

It is clear from the repeated invocations of the Prime Minister that in the imagination of the government, the only constituency the government addressed was the labour elite. When the Prime Minister referenced working from home, it is a privilege which some sections of the labour elite could do. As one went lower down the labour hierarchy it became increasingly impossible to do. It was not possible for the owners of the small roadside corner shops/ which

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7. Livelihood that arises out of street activities such as sex work, traditional practise of Mankti.
remained shut under lockdown. Neither was it possible for those carrying out sex work or the practice of Mankti. These are the same people who are judged to be at the bottom of the social hierarchy.

This action of unplanned lockdown without prior information struck utter chaos into the lives of especially those from working class, oppressed castes and marginalized communities who depend on everyday work for their livelihood and food. They could not even go on the roads to figure out what they could do to survive since the police did not hesitate to use brute force to prevent people coming on the roads. The state authorities neither realized nor had an empathetic understanding of the severe impact the lockdown had on these communities. It was almost as if they had begun a journey to death as they were stripped of their dignity in their desperate search for work and survival.

The decision of lockdown was taken, based on the simple point that some sections of the labour elite could continue to work, while ignoring the lived realities of over 90 percent of the Indian working population.

The lives of workers in the informal sector have always been precarious, with non-implementation of labour laws, no medical benefits and no job security. It is this mode of precarious livelihood which has been hit most devastatingly by the lockdown. If people don’t work for the day, they don’t earn money and in turn have no food to eat. The informal economy consists of those who make a living at the very fringes of the economy be it, sex workers, street vendors, rag pickers, daily wage labourers etc. who were not in the
contemplation of the government. Their livelihood depends on the fact that there is economic activity and the absence of this, means that they too are without a means of subsistence.

The poignant images of thousands of migrants walking sometimes literally hundreds of kilometers to get home, brought home the fact that mitigating the impact of the lockdown on migrants did not figure in the decision to impose and implement the lockdown.

In this story of those were not considered by the state in terms of the impact of the lockdown, the invisible victims were the transgender community. Even when it comes to calibrating suffering, sometimes there are invisible hierarchies, and the transgenders identities are often at the bottom of these hierarchies. If there is any space left on this ark of suffering — then transgenders are included as a humble cabin attendant. There is no hope of the last being the first in this inheritance of the meek.

In Ambedkar’s terms if we see caste as ‘an ascending scale of reverence and descending scale of contempt’, the ones whose lives are looked down with contempt and who occupy the bottom rung are the transgender community. The question this report will address is the forms of suffering inflicted upon the transgender community by the lockdown, the complete failure of the state to provide for transgenders as citizens entitled to rights and the consequent activism by the transgender community leaders to provide relief to their own as well as other suffering communities and the challenges faced therein.
Though there are innumerable reports documenting the struggles and the impact of the lockdown on different communities, different economic sectors, this report brings to the fore a unique lens to view the marginalized community more specifically the transgender community – it is the lens of asserting dignity and reclaiming due respect. This is not a report with only stories of pain and humiliation, rather a documentation of assertions of dignity. It documents the way in which the most marginalized saved and supported many of their friends in the darkest times despite them experiencing humiliation and degradation.

This Report in its first chapter demonstrates how the state failed to even consider transgenders as an affected constituency till the concerns of transgenders was raised before the Karnataka High Court. However, in spite of regular Court monitoring of the relief efforts by the State, it proved to be insufficient to take care of the survival needs of the community.

This failure of the state to fulfill its constitutional responsibility resulted in the initiation of some spontaneous and amazing relief work by the transgender community for marginalised people. In the course of this, the transgender community members learnt that many funders saw relief as charity which translated into a complete lack of respect for the dignity of the community in the act of giving. The question was how could the act of giving become an act founded on the fundamentals of respect for the dignity of those one seeks to assist. The key learning was that giving and dignity had to be inseparably linked if it was to be done in a way which enhanced one’s common humanity. The other remarkable
fact which emerged was that the transgender community assisted not only its own members but also others in distress, thereby crisis asserting and defending the humanity of all persons during a crisis. To those accustomed to viewing transgenders as ‘victims’ in need of assistance, this transition to transgenders as ‘doers’ was an eye-opener.

The challenges faced by the community during the relief work included negotiating with the police to even move around to provide relief kits. While every other communities got curfew passes with much ease for carrying out relief work, the transgender community found it extremely difficult to access them. The inability to move around hit PLHIV’s particularly hard as the access to medicines was a matter of survival and it was difficult to get to the hospitals to access the medicines.

The pandemic not only exacerbated forms of economic inequality and powerlessness experienced by the transgender community but also social biases and prejudices against the community. Transgenders under the guise of social distancing experienced treatment which was dehumanizing and amounted to the practice of a form of untouchability.

Since even during the lockdown there was no let-up in the violence and discrimination that they otherwise routinely faced, transgender activists had no choice but to go to the police station to file complaints with respect to the same.

8. People living with HIV
The transgender community suffered a severe mental health crisis due to unemployment as well as forcible isolation from community support and the pressure to spend all of one’s time with family members who may not have been sympathetic to transgender people.

The inability to pay for mental health services meant that they often had to suffer a crisis of loneliness and depression.

When finally, the government began to ‘unlock’, the community realized that some things had changed quite dramatically. The income from sex work was still a trickle as people were ‘scared’. The ‘judgmental attitude and stigma’ towards transgender persons and contempt had increased manifold and the community was subjected to contemptuous remarks indicating that they were responsible for the spread of COVID-19.

Thus, this study indicates that the pandemic and the measures taken to combat it has had dramatic impacts on the lives of transgender persons. This study has sought to preserve the voice of the transgender person so that one can understand the impact of the pandemic from the perspective of transgender persons. The report also endeavors to document the moving manner in which community leaders asserted and reclaimed their right to dignity.
With the outbreak of the novel Coronavirus in March, the Central and State government were constitutionally duty bound to respond to the crisis with measures to protect and uphold the fundamental right of dignity, access to food and healthcare for all. The State willfully ignored its constitutional duty and instead focused all energies on imposing a series of unplanned lockdowns.

The State’s lackadaisical response to the plight of the transgender persons in Karnataka was set to continue had the High Court of Karnataka not intervened. Writ petition No 6435/2020 was filed on 16.03.2020 before the Hon’ble Karnataka High Court seeking relief measures during the lockdown ranging from access to food and essential items, access to medicines, animal welfare and parole for prisoners.

While hearing this petition, Justices Oka and Nagarahna repeatedly asserted how the state responded to COVID-19 was a policy matter in which there would be no interference. However, the Court would look into the way the policy of the state was implemented. Thus, from the viewpoint of the Court, it would
not substitute its wisdom for the government and take over the running of the government but instead ensure that executive action and policy did conform to the Constitution. The court’s approach has been to ask Wa response was deemed insufficient by the Court, the Court went on to pass orders. This approach by the Court where it spends considerable time, trying to get responses from the state government, put forward suggestions for the consideration by the state government and eventually pass orders has had an impact in highlighting the needs of marginalized communities, ensuring transparency with respect to the policy of the state and nudging the state towards constitutional compliance in terms of its executive actions and policy.

In course of this litigation, an impleadment application filed by Ondede and Centre for Study of Social Exclusion and Inclusive Policy, NLSIU articulated the inability of the members of transgender community to pay rents for their accommodation, for hormone therapy treatment given their complete loss of earnings. This application was taken on record by the order dated 03.04.2020.

Prior to taking this application on record, the court through its interim order dated 30.03.2020 inquired regarding the State Government’s plan to provide a comprehensive plan for supply of food grains/food to the needy people, poor, daily wage workers, people residing on the streets etc. It also inquired if the State government will follow the directions laid down by the Supreme
court in the case of Swaraj Abhiyan⁹ to provide rations without ration cards after production of any identity proof as mandated in cases of natural calamities. Through the same order, the court even suggested the State government to take the aid of different NGOs in carrying out statewide relief work. (Paragraph 26)

Answering the question of the relief towards the transgender persons, the state in its written submission dated 09.04.2020 submitted that:

“The State Government has decided to release an amount of Rs.1214 crore to facilitate advance payment of two months of social security pensions to 62.28 lakh beneficiaries, including those belonging to the transgender community. Payment has been made through DBT to 40.18 lakh beneficiaries, and disbursal through eMO (door delivery) through post offices to 22.10 lakh beneficiaries is in progress.”

The court in its order dated 09.04.2020 took note of this submission and specifically stated that applications for grant of benefit under the Mythri scheme are required to be disposed off immediately for eligible transgender persons. All persons eligible for this pension must be given this pension amount for the two months of April and May at once.

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⁹ Swaraj Abhiyan v. Union of India and Ors, 2016 (AIR 2016 SC 2953)
Even while continuing to exercise restraint on making policies, the court had its way of carving a path for ensuring basic rights of the vulnerable. In the same court order, the court recognized that there are in fact a large section of citizens such as transgender persons, sex workers that have been deprived of food and their daily earnings. The court necessitated the state to take its decision on distribution of ration keeping these conditions in mind as well as using proof of identity as a ground for distribution of ration, instead of a ration card.

As a consequence of this, the State issued a circular for opening of shelter homes for migrant/construction workers, homeless, destitute and those stranded on the street due to COVID-19 lockout.10 This circular elaborated on the steps to be taken for providing shelter, food and necessities to the identified vulnerable persons.

On the next date of hearing, the court took note of this circular and pulled up the State for non-identification of the vulnerable sections of people even after 23 days of lockdown. They directed the State Government to immediately step in and ensure that BBMP complies with its statutory obligations and particulars of the aforementioned circular.11

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On the same date, the state also submitted its policy decisions on the issue of provision of food to the needy. It was decided that for purposes of disbursal of ration, a person was required to produce a ration card either by the State Government or any other State to procure ration from the public distribution system. For the class of vulnerable citizens having no shelter or food, the District Administration planned to continue to open shelter camps for housing this category of persons and providing them food. The Gram Panchayats and Municipal Local Bodies were required to assist them in this process. Furthermore, the state submitted that vulnerable poor households and migrant workers with shelter would be provided with dry ration or cooked food.

Specifying this further, the State Government in its written submissions dated 21.04.2020 noted that for ‘providing relief to vulnerable persons, including those not covered by the Public Distribution System’ it would provide a ‘dry ration kit which shall consist 5 kg rice, 2kg dal, half litre oil, half kg sugar, half kg salt and appropriate quantity of spice as a minimum requirement’. The dry ration kit was for a single person for a period of 21 days.

Taking note of this submission, the court discussed the difficulty of the vulnerable communities in affording an LPG cylinder to prepare food using this dry ration and asked the government to address this issue.

The court continued to hear this writ petition along with its connected matters and played a crucial role in pointing out
the glaring insufficiencies in state policy’s implementation and holding them to account.

After a prolonged back and forth between the State and litigants regarding the issue of provision of ration to non-ration card holders, the State submitted its decision of providing 5 kgs of rice and 5 kg of channa per month for the month of May and June 2020 without any ration card and ‘sufficient identification’.

### 2.1 The Patterns

There was clear apprehension on the part of the State to provide ration to persons without ration cards, shelter to the homeless, destitute and migrant workers and provide a conducive environment to NGOs and public-spirited individuals to carry out relief work.

Many policies were announced through various circulars/Government Orders. These dealt with a range of issues from allowing NGOs to carry out relief work to scheduling trains/buses to different parts of the country free of cost to disbursing ration without necessity of ration cards.

Each of these policies was a result of civil society’s timely intervention through this litigation and its consistent appeals to the state authorities.

The state, if left to its own devices, would have exhibited no concerns for the needs of vulnerable communities.
While the effectiveness of the few welfare policies that were supposedly implemented remain questionable, the policies in sum and substance lacked basic foresight with respect to the lives of vulnerable communities including the transgender community. The assumption that transgender persons possess ‘sufficient proof of identity’ was baseless. Such proof of identity requires the transgender persons to declare their identity to state authorities by virtue of which they are likely to be targeted and discriminated against. The fear of this discrimination prevents many a transgender person from making their ‘proof of identity’. Community leaders through their testimonies show us how the police actively prevented them from commuting to carry out the relief work owing to their identity.

One of the activists we spoke to explained how the deep-rooted bias of the BBMP became visible in the substandard ration kits that were provided to some of the transgender persons. These kits were not only unhygienic but also infested with germs and insects. Clearly these actions or inactions show the State’s unwillingness to fulfill its constitutional duty of upholding fundamental rights of citizens in the time of a pandemic.

Why did the state react this way? One answer is that it is their lack of empathy and understanding of the realities of transgender persons, along with the idea that state is carrying out charity as opposed to fulfilling its constitutional obligation. The right to dignity as enshrined under the Part III of the Constitution which time and again courts have held to be integral to the existence of a person remains an elusive concept for State action and policy in this context.
The obstruction in accessing basic amenities, such as medication required for hormone therapy, HIV patients and diabetes took a toll not only on physical health but also on mental health of transgender people. This blatant disregard for basic needs of food and medicine stem from the lack of understanding of issues of identity and dignity.

Apart from including a ‘third gender’ in the forms made by the State Government, the policies made during COVID reflect no understanding of the law laid down in NALSA v. Union of India\(^\text{12}\) which mandates transgender persons should be guaranteed all fundamental rights.

This decision of the government to impose a lockdown without considering the likely impact on vulnerable communities more specifically the transgender persons was disastrous as per our findings. Conversations with our friends have shown that many transgender persons who earned their livings by engaging in sex work and mankti\(^\text{13}\) on the streets were left penniless in the middle of a pandemic. Nine months into the pandemic, we can state with absolute certainty that the impact of the lockdown and COVID-19 pandemic on the transgender persons can be categorised as catastrophic.

The transgender communities we interacted with were very

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\(^{12}\) AIR 2014 SC 1863

\(^{13}\) The traditional practices of blessing and receiving money for that.
dissatisfied with the quality as well as quantity of relief provided by the State. It was not adequate to take care of the household for the entire period of lockdown and the quality of the relief provided was sometimes, not even fit for consumption. This complete failure of the state to provide for the transgender community despite brave efforts to nudge the state towards constitutional compliance, meant that at the end of the day the community had to rely upon its own efforts or as the Prime Minister likes to say, be ‘Atmanirbhar’! \(^{14}\)

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3.1 Beginnings of relief work

Many of our transgender friends who depend for their livelihood on sex work and mankti got stuck in their houses not knowing how to survive. Trans community people just could not go on the streets to make a living for their survival. The idea of relief did not strike many people initially. It took people sometime to plunge into relief work. A trans woman activist who has been working in the field of sexual and gender minorities’ rights for around 20 years shared with us, that she was in her native place which is 3 to 4 hours distance from Bangalore when the lockdown was announced. She was stuck there for 10 days, during this time as she could not go out or travel back to Bangalore. She was feeling extremely restless and stuck because she felt her need and her presence was more important in Bangalore with her community. She could imagine the plight of her community which was dependent on everyday street life for their survival. They were suddenly hit by the empty street and restrictions on movement. She felt that after 20 years of her working for the
community’s rights she now could not ignore the situation even if she was herself in a bad mental health state. She then took a decision to reach Bangalore to start helping the community in this crisis situation.

After 2 days she reached her house in Mattikere. During this whole time till she reached home she was getting information about how her community was suffering due to the lockdown.

She said that something in her heart compelled her to help the community. ‘Help’ for her as she described was to stand with the community during the crisis time, to ‘be’ with the community and understand the needs of the community during the lockdown where all of a sudden without any notice a person’s livelihood, life, and survival was erased in no time.

Her worst fear was about how it becomes difficult for the PLHIV community persons who were on ART\textsuperscript{15} to access their medicines. Instead of working on relief as a single organization she decided that her organization will work with other two similar community organizations on relief.

A friend who lives within the Hijra tradition\textsuperscript{16} shared that in her

\textsuperscript{15}. Anti-Retroviral Therapy meaning therapy taken by PLHIV to build immunity.

\textsuperscript{16}. Also called Hamam. Most Hijra Gurus have Hamams which are bath houses for transit population. It is also space where clients can have sex.
tradition, people live together as relationships of ‘Guru and Chela’ (mother and daughter). In their house of Guru and Chela there were more than 150 people. All of them depended on sex work and Mankti. When lockdown was imposed, people from the community were in a horrible shock. The same friend also looks after a Targeted Intervention Project for a community organization. The project reaches out to about 1300 people from most vulnerable communities to prevent HIV. Even in the NGO world, people did not know how to address this issue of lockdown leading to hunger, starvation, and lack of access to medicines.

She said that she did not even need to consciously think about whether to work on relief or not as she knew what the community people needed to survive as she was also going through the same experience. She said that she did not have words to describe her conviction on the need to work on relief.

She stressed on the difficulties faced by trans community people who were dependent on ART medicine since missing a single day’s medicines would leave people medically unstable. This leads to severe insecurity. That was her biggest concern.

Another transgender community rights activist shared that she shuddered to imagine the huge amount needed for relief. She started thinking about how long this relief should be provided and for how many people and on what scale. She was furious about the government’s irresponsible decision to do an unplanned lockdown.
She blamed the government for this lack of understanding which turned the lives of marginalized communities upside down. She was concerned about how the community including her would survive (she then did not have a job). She intensely worried about how to start getting food and grains for the community. She shared that while thinking of relief she just could not think of only transgender community, since transgender community is well aware of lives of different marginalized communities. It was the realization that everybody was hit by the chaos of the unplanned lockdown. And with the profound feeling of belonging to society and solidarity, she started working on relief for many marginalized communities.

An activist and a worker in the Targeted Intervention project of a community organization shared that within 2 days of lockdown some Hijra Gurus went back to their villages or homes and their Chelas were left with no other support. They started calling the Targeted Intervention office for help. At this point the activist shared that there was no time to think whether to support or not, whether to do relief work or not. The situation just drew them to the relief work. They said that they were well aware about the risks of contracting the COVID virus during the relief work. They also said that risks are part of trans and queer community survival; this was just an added layer.

A trans man activist from Chikkaballapur, who also manages a WhatsApp group for trans men community and runs an organization for people with disability, shared that initially they
tried to assess what were all the needs of the trans men community and the community of people with disability for them to prepare and procure the relief material. Getting regular medicine and Hormone Therapy (T shots) became very difficult for the trans men community. While most of the trans men community were either employed in NGOs or in small jobs, many people did not receive salaries and also their work was not amenable to ‘work from home’. Trans men and their partners who worked in super markets, flower markets and other small jobs, could not travel to their work as there was no public transport.

This trans man, even though he did not receive his own salary through the lockdown, provided relief for trans men, as well as provided relief for migrant workers, Muslim women, Dalit community people, people from slums, people who lived in shacks, people with disability and many other marginalized groups.

A community organization which specifically works on female assigned trans and queer community shared that for them their organization focused on ‘crisis intervention’, which mainly looks at providing legal support, shelter support, name and gender change legalities, negotiations with police, negotiations with family towards acceptance of the community to live their lives independently. They also felt that this situation of COVID 19 unplanned lockdown was also a crisis situation for the trans and

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17. When a queer or trans community person is not accepted by parents, family, friends and society and make it impossible for them to survive a dignified life, they seek support. To provide the kind of support that they need is called crisis intervention.
queer community as they could not work to survive and live their independent lives.

In their work of crisis intervention, they would work one to one, as in their client’s immediate need was to be able to live independently. But this situation now was about the whole community’s survival. The team shared with us that they saw it as their ‘duty’ and ‘responsibility’ to plunge into working on relief in this situation.

They also shared that even before the community organization could think of doing relief work, many trans and queer individual activists had already started doing the relief work. These community organizations took longer to make that plunge. The team shared that while many organizations saw this as a chance to raise funds for themselves, this organization and this team diverted their major funding support for the relief work once they decided to start the relief. They also were more concerned about the indefinite lockdown issues so they decided to think of doing relief support in depth to sustain people till the end of the lockdown rather than focus on increasing the number of people they would reach.

The articulation of reasons that led the trans activists to carry out relief work may vary. At its core was the spirit in which the community stood by each other through this crisis with compassion and the grit to survive. This is an embodiment of the constitutional value of fraternity as imagined by B.R. Ambedkar.
3.2 Relief – scale, measure and material

All the people whom we spoke to regarding COVID 19 issues spoke at length about the relief work, its scale and length, its measure of how much should a person or a family get, and what relief material should be given.

All government administration processes and welfare schemes are based on the understanding of hetero-normative nuclear family which includes father, mother and 2 or 3 children. Relief work claimed to be done by the government was no exception to this thought process. The reality is, many queer or trans persons don’t live in such family systems which is recognized through a ration card by the government. There can be no identification of a particular head in cases of an alternative family.

In Hamams, there are chelas with their gurus and their sisters in their tradition. There will be different numbers in such alternate families or chosen families which the government does not consider and understand. So, a relief kit made for 4 or 5 people of a hetero-normative family is not appropriate for trans or queer families. All community activists spoke at length about how donors or organizations or even government would always try and understand queer and transgender families with reference to a heteronormative nuclear family. This understanding, or rather a lack of understanding, made the governments relief work a failure by restricting the number of people from queer and trans families who could avail relief support.
Our transman friend from Chikkaballapur would raise money through Facebook posts and insisted on putting together relief kits in his house as he was not sure that people would give edible quality material. He shared that he would not pack rice which was unnecessarily expensive but would insist on buying good quality rice which is edible and affordable so as to reach the maximum number of people.

Another activist shared that they along with activists of a few trans and queer community organizations approached the BBMP to give relief kits for marginalized sexuality and gender minority communities.

The BBMP relief kits were given in only three or four areas. This activist shared that government relief work failed miserably as they gave relief kits consisting of food which was below standard and not edible.

Finally, these activists from the three transgender community organizations decided to make their own kits for the relief work. They came together and listed the material that would be needed in a day and took an estimate for 15 days per 5 people minimum (assuming there would be more than 3 people in alternate families of trans and queer houses). She shared that some of the most important and nutritious items could not be practically given like milk, other vegetables except onions and potatoes. She shared that for PLHIV community they had to think of nutritious food along with regular food as they had special needs.
The community activists were sensitive to the needs of the community. The sensitivity showed in the care with which they listed the things that need to go into the relief kit. Starting from tea powder to coffee to milk to rice, daal, chili powder, sambar powder, to cumin, oil etc, they detailed everything which is required for a basic minimum. The community activists ensured that they got their supplies at a lesser cost but of a good quality.

Initially, many of our community activists who spoke to us were directly linking up the donors to the community people so that the donors themselves would give relief material. This relief material many times went unchecked and was below standard. That is when several community persons who got into relief work started making the relief kits and would request for monetary support from donors to make the relief kits. All our friends who spoke with us shared that the BBMP kits from the government were below standard. So many activists from the trans and queer community went back to the government authorities to provide them feedback about this and also demanded to give better quality of relief material and also more quantity.

One of the trans woman activists called up the BBMP commissioner to tell him about the quality of the relief kits of BBMP and they did not respond. So, she went to the media and gave interviews about the quality of BBMP kits which were below standard inedible rice and rotten vegetables. When it came out in the media, the BBMP immediately called this trans woman activist who is quite well known for her work in the field of transgender rights. The BBMP
asked her to give media interviews saying that BBMP kits quality was made better and she refused. However, after her complaints in the media the BBMP seemed to have worked to ensure better quality.

All the transgender activists who interacted with us about their experience started preparing the kits themselves. That is, the community relief workers would come together in their offices or homes and put all the relief material to be distributed into packets going by the number of people in a house as documented by them in written notes. Some people used community organization offices to store the material for relief kits and some people took the material to their homes, where other community people would join them. They all would sit together and measure all the material and prepare kits that would last for 2 or 5 people for about 15 days. By the time these 15 days would elapse, they again would find donors to give them monetary support to prepare relief kits. As one of the respondents, a senior hijra activist shared; slowly layers of work started piling on them as the government did not fulfill their responsibility of supporting them through quality relief kits.

An organization that works for the female assigned trans and queer communities shared that they had to get into relief work as there was no way out. They immediately had an internal meeting and started work on relief. Initially, they got relief kits from another transgender activist who was doing the relief work. They had to go and pick up the kits and contact trans men communities and
their dependent families to pick up the kits from their office. They then thought through the relief plan more seriously and whether it matched the needs of the community.

They felt that transferring a sum of money to the accounts of the transgender community consistently through the lockdown was more useful. This was especially critical, when people did not have jobs and hence had no income and were unable to pay rent; Ensuring cash transfers meant that the community could just use the monetary support in a manner they like than just getting the ration kits which might be of use or not for their entire families.

They spoke to their funders who readily offered to help through sending funds. They said that being consistent in support by transferring a sum gives the receiving community dignity to take their decisions about their needs. They also said that they did not address the issue in terms of the numbers. They restricted their numbers but went in-depth into understanding and meeting the needs of a vulnerable community throughout the lockdown till they could survive on their own. The team of activists was very clear that their work on relief had to be based on dignity and respect for the suffering communities. They sent money and did not even demand a receipt as many funders expect. They negotiated with their funders in great detail about how the work will be done and that they would give a report of the work and not any documentation of the relief work in forms of photographs or any such other things.
The team also shared that BBMP insisted on photos being clicked of the relief kits being given by them to female assigned transgender communities and their families. The organization took a firm decision to return the kits to BBMP. Firstly, the quality of the kits was below edible standards. Secondly, this particular community of female assigned transgender communities are more vulnerable than male assigned transgender community and so many of them would not want to be outed in the name of getting relief kits. Preserving the confidentiality of their identities was integral to protecting their right to dignity and even their right to survival since by the time the relief work started for COVID 19, the information had passed through various WhatsApp groups of transgenders about how transgender community were affected in Assam during the NRC process. This fear of outing community details was reflected when the team said, “Going by what we heard about CAA and NRC, giving the community’s details to any government body meant giving details of the community members, in which many did not have proper documents. Many of them had migrated from other villages and small towns. This means inviting danger, so we refused every act that demanded for photos, proofs, ID proofs, revealing names and whereabouts”. The very fact that identity proof of transgender community was not reflective of their chosen names and gender as many of their families would disown them, brought in a fear in the community about revealing their details. These details were required by the donors which created a huge mess and also fear in the

18. NRC Final Draft is a Double Whammy for Assam’s Transgender Community, Retrieved from https://thewire.in/rights/nrc-assam-transgender-persons-supreme-court-nalsa

46  Asserting Dignity in Times of Covid
transgender community. Hence the organization decided that they would deliver monetary support through online means, with only the organization community members knowing the details and the donors not knowing any identifying details of those to whom assistance was provided. Some of these members of the organization who have worked over years with female assigned transgender community said that this community does not have family or community support in the way that male assigned transgender community has through their Guru Chela system.

All this is evidence of the lack of understanding of the lived realities of the transgender and sexual minorities community, by the Government.

The contrast in the attitudes of the Government vis a vis the community leaders is so stark. On the one hand, the government is observed demanding that photographs be taken during the distribution of relief kits with no regard to the privacy and the sensitivity of individuals gender and sexual identities. On the other hand, we observe activists and community organisations shunning such demands and going one step ahead by limiting access of donors to the individual identities of those to whom assistance was provided.

The decision of the community organization to directly provide monetary support to the community members is a reflection of the internalisation of the concept of dignity. The monetary support provided members the freedom to fulfill their needs in
the way they deemed best. Remarkable amounts of effort were put in by the activists and community organizations to identify unique needs of the community members. Unlike the government they did not prepare relief kits keeping in mind a heteronormative family. Quantities were adjusted based on the sizes of the alternative family. It is moving to see empathy with which the activists understood the nuances of needs of the community and acted upon them.

3.3 Setting Up of Processes of Relief Work

It was an extremely interesting process of how many transgender community persons set up mechanisms of keeping track of the people who approached them for relief. One of our long-time friends, a trans woman and her partner, a trans man, initially could not comprehend the number of people who turned to them requesting for help for survival apart from those from the traditional homes of Hijras. The local areas where they live has many people who are marginalized and are migrant workers, refugees, destitute women/men/transgenders, people living in small settlements, people living in shacks, people of nearby areas approached them as the word spread that this couple was doing relief work.

Initially they could not keep track of people, so they set up a system. They would go personally to those areas where the demand would come from, note the names and numbers of those...
requiring assistance and list down the same in their book. Then they would prepare a kind of token themselves which they would go back the same day and distribute the token. In the meantime, they would contact the donors for the support. They ensured that they would either link the donors directly to the people who need relief or they would request the amount of relief that is needed and would prepare kits according to the needs of those people. When they went to get details of people in particular areas, they would also ask those people about their needs and based on those demands they would prepare kits.

In this way they covered 18 areas of marginalized communities including transgender persons, their homes and people who lived in those homes. They documented the whole process through video but it was not for donors or to report to funders. They documented the whole process to keep track of a record of how they managed to do relief work during a pandemic which was very new, compared to the kind of work our trans woman friend has always been involved in. Together from the house they live in, she and her Chelas and her partner all got involved in relief work and reached out to more than 10,000 people.

Our trans man friend from Chikkaballapur was initially surprised at the way in which people with disabilities approached him for relief. Soon he started seeing that different marginalized communities across Chikkaballapur district started approaching him. In fact, he got a call from migrant workers community near the borders of Chikkaballapur. They had migrated from a small
district from Maharashtra. He travelled on his bike and met those migrant workers who were more than 60 kms away from his house. Then he realized that they were a set of more than 80 people and around 30 or so children with them, and that ever since the lockdown was announced, they could not even have a meal a day and barely consumed any water. So, our friend immediately got them some biscuits and water and milk as he managed to get it from his place in Chikkaballapur. He then went to the district administration people and demanded for relief kits where he was informed that ration kits were being distributed in the jurisdictional limits of Bangalore which Chikkaballapur doesn’t fall in. Hence it was possible to provide them with ration kits in Chikkaballapur. Immediately he contacted his friends and the NGOs he knew and asked for help. With some help from NGOs and the Chikkaballapura district administration, he managed to get those migrant laborers shelter in a government managed place and two meals a day. He then found out the number of the district collector from the internet, contacted the district collector in Maharashtra and arranged for 3 buses to take those migrant workers back to Maharashtra.

That is when our friend decided that he would put out a call on Facebook requesting the public to put funds in his account and he would work on preparing relief kits and then he himself with his partner and friends would go and distribute to the marginalized communities. He started maintaining 3 books for the reference of his work. Book one for the amount that was being credited into his account, book two to maintain the names and numbers of people who needed relief support in what mode with details. In the third
book the list of the needs of these people was maintained along with the accounts. He maintained these 3 records till the end of the lockdown and much later. He showed us how he ticked each time one work was done. For each of his donors he would put a general report on Facebook to understand that the work was done. He shared that one could question his accountability but his records could prove his work and his people could also testify to the same. He managed to reach out to 9800 people through his relief work, including consistently marginalized communities like people with disability, Muslim women, Dalit women, aged sex workers and transgenders in their area, trans men, trans women, migrant workers, pregnant women, families living in temporary settlements etc.

The process that was followed by the female assigned transgender activists’ organization was that they got back to all their clients and their community friends, who had earlier contacted the organization in their crisis situations for legal support and other kinds of support like mental health, shelter. The organization contacted these people to find out how many community people their household had and then assess how much amount was needed to each member of their families so that per person amount of cash support could be transferred to their accounts.

The organization after much deliberation decided that the receivers should have a choice in getting what they need not that ‘givers’ or donors just decide to give what they want to give. This process according to the organization allowed the receivers of
relief a decision-making power about what they need. It could be medicine, food, or any other accessories.

Initially when this organization of female assigned transgender activists received relief kits from different donors, they wanted to ensure what was inside the kit, the quality and the quantity. Once they ascertained this, they opened the chance of getting relief kits to women cab drivers who approached them for support. Many women cab drivers are community people who do not want to out themselves for the reason of their work. Also, there is no need for them to out themselves as the organization believes that if anyone approaches them for support, the mere fact that they approached them is enough for the organization. They require no proof of their identity. The team sat for a meeting with all this information and then worked out a manageable amount per person in a trans man’s family/dependents/partners etc and transferred the amount to each person continuously every month till the lockdown ended and till they could get back to their work.

Three community organizations that worked together in major areas of Bangalore and some districts of Karnataka, shared that they would list the names of people who would call them through the helpline, the areas they worked in and maximum people that they knew through their work and their friends. They made 3 columns in a paper, the name, the contact number and received a signature so that there will be a document which is for them to keep track of their work and relief support. This was also made for procuring relief material and shaping the relief package sizes.
based on the needs of the community. For funders they would just report the number of people reached out to and number of times that they worked on relief.

3.4 The Challenge of mobility in carrying out relief work

In carrying out the relief work, the community organizations and activists, faced another kind of hurdle – the challenge of mobility. An activist from a community organization (Transgender Targeted Intervention project) shared that many of the community activists who were doing the community relief work struggled hard in terms of being mobile as they initially did not get permission cards from the Government or BBMP. When they requested the BBMP commissioner to release passes for this community to reach out to trans and queer community people, they just did not respond. At one point the commissioner stated that he needed a letter on a letterhead. Later he just did not respond. Many community activists approached the Department of Women and Child Development director and then they issued the letter on their letterheads for our community people to do relief work. It took some weeks into the lockdown before the community activists could acquire the requisite letter of permission to do relief work.

Till this letter came many community activists who have had the history of working on the rights of marginalized sexualities and gender were getting stuck at each police junction and there would
be huge arguments and fights between police and the community activists. While other people could get passes for relief work from the BBMP, trans community people were being refused when they applied for passes. Trans community activists found this as a major impediment to be able to do relief work not just for persons of marginalized sexualities and gender but to other marginalized communities like migrant workers, sex workers and slum residents, as well.

In fact, some of our trans men activists took to relief work during the early hours of the day and late night so that they would not be harassed by the police. These activists said that for many female assigned transgender community members, the risk of getting stopped by the police meant being exposed to questioning about their gender in a humiliating way in public. Activist shared that it is very easy for police to humiliate and harass the female assigned trans community persons. Hence, the community unlike the trans women community have always tried to avoid encountering the police for their own safety issues.

The State’s clamp down on people’s freedom of movement who were carrying out relief work was arbitrary and unreasonable. The people/organisations carrying out relief were in fact, in their capacities making up for the State’s unfulfilled constitutional responsibilities towards its vulnerable populous.

The reach and impact of the relief work carried out by each of the community organisations and activists we spoke to was significant.
Even in the midst of battling a pandemic, they had the foresight to set up accountability systems for themselves. These systems were extensive and meticulously followed. In these systems, identities were cautiously protected when updates regarding the progress of the relief work were shared with the donors, all this while they were themselves reeling under the stress of the pandemic.

The consistency, the rigor with which the relief work was voluntarily carried out by each community activist and organisation is an accomplishment that must be recognised and applauded. If there is a series of actions one must refer to so as to understand the operation of dignity and fraternity in our society and its implications, it is this mammoth relief work that has been carried out. Contrary to the opinion of few in the Constituent Assembly Debate that fraternity was an ambiguous, unachievable reality, the activists and community organization leaders give us hope that through relentless efforts fraternity can in fact be translated into a reality.

The restriction on movement imposed by the lockdown presented itself as a challenge to carrying out relief work by the community organization and community leaders. The right to freedom of movement enshrined under Article 19(1) (d) is a fundamental right which can be curtailed in the interest of general public under Article 19 (5). In order for this restriction to be constitutional
it is must be proportional to the interest in question. While it has been argued by many that this lockdown was necessary and constitutional, we beg to ask two questions – Firstly, who constitutes this ‘general public’. Is the transgender community by the State’s standards considered even a part of this general public? Secondly, how was a lockdown in their interest especially the interest of the transgender community given that they were rendered immobile and unable to access even basic necessities of food, shelter and healthcare?
Apart from the challenge of carrying out relief, this arbitrary restriction on the freedom of movement was a direct impediment for persons from the vulnerable communities to access healthcare, especially the transgender community. This is despite right to health being recognized within the Right to Life under Article 21 of the Constitution. Right to Health is inextricably linked to the right to human dignity. The Supreme Court in Independent Thought v. Union of India (UOI) and Ors, observing the mandate of Article 21 held,

“177. There can be no dispute that every citizen of this country has the right to get good healthcare. Every citizen can expect that the State shall make best endeavours for ensuring that the health of the citizen is not adversely affected. By now it is well settled by a catena of judgments of this Court that the “right to life” envisaged in Article 21 of the Constitution of India is not merely a right to live an animal existence. This

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20. AIR 2017 SC 4904
Court has repeatedly held that right to life means a right to live with human dignity. Life should be meaningful and worth living. Life has many shades. Good health is the raison d’etre of a good life.”

The Supreme Court went one step further and highlighted the necessity of enforcement of this right to health by the State and held that, 21

“The right to life, we acknowledge, encompasses several rights but for the time being we are concerned with three important constitutional rights, each one of them being basic and fundamental. These rights articulated by the Petitioner are the right to live with dignity, the right to shelter and the right to health. The State is obligated to ensure that these fundamental rights are not only protected but are enforced and made available to all citizens.”

The active and passive impediment to access healthcare is in direct violation of Article 21 of the Constitution and the settled position of law. The experiences shared in conversations below must be viewed in this context.

A transgender activist who works in a community organization that works across Karnataka shared that the isolation ward

21. Ashwani Kumar v. UOI and Ors, (2019) 7MLJ 81
charges for common people who could afford at the beginning of the COVID 19 pandemic was 25,000 and for BPL card holders it was 15000. If a BPL card holder could actually afford 15,000 they could also access better health care facilities. This activist also shared that health and public health systems in Karnataka were never affordable for marginalized communities. During something as severe as COVID 19 also, the government did not bother to reduce costs and make arrangements for the marginalized and working-class people to access health facilities. Trying to encash money from most marginalized community people in the name of medicines and isolation wards and quarantine is not justified, said the activist.

For many of us trans men, we just cannot access health services anywhere in any clinic or hospital for both pre gender affirming surgery and post gender affirming surgery. Some behaviors of doctors and nurses can create huge dysphoria and humiliation while checking up and diagnosis. There are a few hospitals which have been trained to handle the health issues of trans men and so trans men can access only those limited hospitals and doctors most of which are not government owned and offer no free treatment.” So many trans men postponed vital health treatment fearing financial issues and body shaming by health institutions.

The struggle to take steps as a part of their self-identification process worsened during the pandemic. People were forced to delay their gender reaffirming surgeries. Regular dosage under Hormone Therapy could not be accessed. All this resulted in worsening of gender dysphoria for many. Given that right to self-
identify is a basic human right, the lack of medical facilities for gender affirming surgery must be seen in violation of this as well as the right to health.

4.1 Unique challenge of PLHIV

Many transgender and queer activists who were doing relief work were themselves in a difficult position, as they did not receive salaries or any kind of support. Yet they worked on providing relief to the People Living with HIV (PLHIV) in the transgender community especially who were on ART. The PLHIV transgender community members who are on (Anti-Retroviral Therapy) ART if they are not given regular dosage of their medicine and nutritious food become weak and vulnerable to newer infections in their body as their immunity reduces. This is a great danger as PLHIV people could easily slip into multiple infections and can also die. The ART medicine is only given in government hospitals in ART centers and the people who need these medicines have to have an ART card in order to get these medicines. The procedure for availing this medicine was not addressed during the lockdown.

There was severe anxiety within PLHIV trans communities because if they broke the chain of the ART medicines then it would lead to side effects and contracting other dangerous infections. One of the community organizations ran a 24/7 helpline right through these pandemic times so that community people could share their difficulties with their own community activists who were supporting them with relief. The activist from the community organization shared that there were many calls on the helpline
which came from people in deep emotional and psychological distress. They also shared that the people who called on the helpline were in deep distress about the inability to access ART and their fear of the adverse health consequences (including death) of breaking the treatment cycle.

Many community activists also spoke about how the regular relief kits that had basic things like rice, daal, etc were not enough for the special needs of PLHIV. PLHIV needed nutritious food for their immunity. Only ART will not help as ART has to be complemented with nutritious food. Many donors or other HIV prevention organizations took time to even think of these critical needs of PLHIV. As one of our trans woman activists from a community organization which works all over the state shared, the attitude was that these people were anyway dying so why did we have to be given nutritious food.

Many trans women activists shared that it is the PLHIV trans community who first called for help as the public started ridiculing this community for going out to get medicines from the government hospital. Initially police did not let this group avail medication even when they informed the police that they had to go and get their ART medicines while showing their hospital ID.

Some police officials took pity and would allow community people to go to the hospital. The activist said that many people especially neighbors who were not allowed by the police to step out started abusing and ridiculing the trans community people saying “oh you people get away saying anything”, “what qualification do you
have more than us that you can go anywhere”, “oh you people satisfy the police so you can get away now”, were the kinds of horrifying statements.

Further even if the police allowed trans community people who were PLHIV, they could not get any transport to commute from their places to the government hospitals. Many people lived in far-off places like suburbs and it became extremely difficult for them to be able to go to the government hospitals. Moreover, people from other states and districts who were on ART medicines who got stuck in Bangalore during the lockdown, also could not avail medicines for a long time.

After a few days into the lockdown, trans community activists from the community organization first sent emails to KSAPS (Karnataka State Aids Prevention Society). 22 Since KSAPS did not respond to them, they spoke to the health minister after which KSAPS gave permission to give ART medicines to whoever showed the medical card of whichever state they were availing medication from. This order was issued but it was not informed to the doctors and the hospital workers. So, they were initially refusing to give ART medicines to trans community people who were PLHIV from other cities and states.

Another community activist who works with the transgender community persons also shared the same incident of how KSAPS

22. https://ksaps.karnataka.gov.in/english
took time to release medicines of ART to the PLHIV trans community and also said that “if they were not sensitive to the situation of transgender community who else can we expect to be”.

The same activist also shared an experience when once a trans community person was taken along with an office person of that NGO, the police stopped them. They told police that they had to take medicine from the government hospital. The police further enquired to get the details of the medicine and the trans community person was forced to state about their HIV status and the medicine they were taking. Immediately the police jumped to a distance and insulted the trans community person saying “oh you are AIDS patient 23. Don’t stand here and spread, go away”. They got humiliated and ousted publicly during this incident which put them in deep depression. As the activist shared, this was extreme insensitivity of the police to speak loudly in public about the community person’s HIV status.

Another activist said that in the government hospitals it was not safe for the PLHIV trans community people to go as there was no distance maintained between the queue for COVID and queue for ART. This brought in fear in many trans community people and people in sex work to even go and access medicines. The fear was about contracting newer infections and COVID virus.

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23. AIDS stands for Acquired Immune Deficiency Syndrome. It is the later stage of HIV infection. It is a condition in which a group of symptoms appear as the immune system becomes very weak. It can take around 8-10 years from the time of HIV infection to the stage of AIDS. HIV infected people can lead symptom-free and productive lives for years. http://www.naco.gov.in/faqs
One of the main impediments for PLHIV people to access ART medicine was the lack of transport facilities during lockdown. The trans community people who had to avail ART medicine could not afford to organize for private transport to reach government hospitals. The activists also said that many police personnel would not even understand the need for ART medicines by the PLHIV trans community and so many of them were not allowed to move around in the city to reach government hospitals. At this point, some of the activists and community people of male assigned trans and queer community decided to demand the distribution of ART medicine in primary health centers so that the PLHIV community need not struggle to go to the government hospitals only. Unfortunately, this demand was only partially successful. Even though the KSAPS and the government agreed to this demand ART was available only in a few primary health centers and not everywhere across Karnataka.

This denial of access to medication and continued treatment must be seen as a gross violation of the right to access healthcare which is a fundamental right enshrined in the constitution ensured to everyone. The Supreme Court in reading down Section 377 in the historic judgment of Navtej Singh Johar and Ors v. UOI, 24 noted the challenges of accessibility of health care despite it being a fundamental right and observed “The right to health, and access to healthcare are also crucial facets of the right to life guaranteed Under Article 21 of the Constitution. LGBT persons being a sexual

24. AIR 2018 SC 4321
minority have been subjected to societal prejudice, discrimination and violence on account of their sexual orientation. Since Section 377 criminalises “carnal intercourse against the order of nature” it compels LGBT persons to lead closeted lives. As a consequence, LGBT persons are seriously disadvantaged and prejudiced when it comes to access to health-care facilities. This results in serious health issues, including depression and suicidal tendencies amongst members of this community.”

Internationally as well, the Office of High Commissioner of United Nations Human Rights has recognized this right to health and pointed to the necessity of fulfilment of this right to lead a life with dignity. With specific reference to COVID-19, the UN in its Report titled COVID-19 and Human Rights, dated April 2020, stated unequivocally that, “Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. Everyone, regardless of their social or economic status, should have access to the health care they need.”

In the same vein, a Human Rights Watch Report reminded Governments all over the world that they have “an obligation to ensure that a serious public health crisis does not also become a human rights crisis because people are unable to access adequate medical care. Governments need to take steps to ensure everyone has affordable and accessible medical care and treatment options.”

Despite repeated reminders by international organizations, advocacy efforts on ground and the Constitution and courts both mandating access to medicines and treatment, the Karnataka Government took months to respond to the basic demand of providing ART medicines in all primary health care centers across Karnataka.

The fundamental right of health is not merely the responsibility of the courts to uphold, but it is the constitutional duty of the State to ensure access to medicines especially to one of the most vulnerable, that is People Living with HIV. Instead, PLHIV were actively obstructed from accessing medication as a part of ART. This is despite the Supreme Court underlining the obligation of the State to ensure that the fundamental rights of weaker Sections of society are not exploited owing to their position in society. 26

And yet again, activists and community organisations were seen carrying the heavy burden of the State on their impassioned and determined shoulders. The activists braved police barriers and restrictions in an effort to move freely to ensure that the community’s right to health was not compromised. It was their efforts that finally ensured medication reached the PLHIV patients. At no point did the activists and community organizations back down from challenging the authority of the harassers – the police.

26. In Bandhua Mukti Morcha v. Union of India and Ors, (AIR 1984 SC 802)
4.2 Mental Health and Addictions

In previous section, we understood the challenges of the transgender community and especially PLHIV persons in accessing healthcare. The World Health Organization rightly so, recognizes primary health care as inclusive of physical, mental and social well-being. Thus, it is necessary that we understand the reality of the status of mental health of the community members to understand the impact of the lockdown on the health of the trans community members.

Many queer and trans community people as it is in normal times lead lives which are isolated from common people. Most of our community people can only socialize with their community people and not the general public in the society as the invariable response of most people is to treat trans people with contempt. Heteronormative binary gendered people especially from dominant castes and upper classes often exclude and silence the presence of queer and trans community from oppressed castes and working classes whether it is in parties, protests, meetings or even festive celebrations. In this context of COVID lockdown it became even more severe as queer and trans community people could not socialize with their own community and were left alone to deal with loneliness, starvation, no salaries, less food or literally no food, losing jobs and not having people to meet physically. Many people became victims of severe depression, anxiety, paranoia apart

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from the fears of contracting Coronavirus while being PLHIV. People from the community who lived other members from the community were now stuck in places without any support systems. Even without a pandemic the transgender community does not get the privilege of socializing with the mainstream society and during COVID they were isolated from even the community support systems. To a certain extent domestic violence also increased during the lockdown between queer partners and transgenders and their partners. Undoubtedly, the pandemic took a toll on the mental health of the community members.

Loneliness was something that forced most people to call on helplines. On the calls on the helplines transgender and queer community people could not communicate their feelings. Being left alone, being left alone with toxic heteronormative patriarchal Brahminical families which would never accept queer and trans lives, being left alone in tense situations of domestic violence, being left alone to deal with starvations and so on. The ‘BEING LEFT ALONE’ was the feeling that predominantly took over the marginalized genders and sexualities communities across the state.

Depression was something that most community people suffered during the lockdown. Depressions about not being able to be or live with partners, not getting ART medicines, not getting food or being able to pay rent, or even survive. Community members who manned the helplines were also affected because the difficult situations that callers spoke about was similar to what they were also facing.

If trans and queer community members had to access mental
health professionals, they had to pay a fee of 1000 Rs for an hour of counseling session. Peer counseling could only hold to a certain extent but actual counseling and therapists needed to be paid and there were no free such therapies for queer and trans people.

Inability to access hormone therapy for the community members who wanted to undergo sex reassignment surgery became the cause for worsening of gender dysphoria in turn causing mood swings, anxiety, depression.

As many community people are addicted to drinking, smoking, guthka, pan masala etc., it became very difficult to continue their addictions which actually was a part of their life support system in a difficult situation. This is because their families, friends, relatives and others do not support them. During the lockdown when cigarettes, drinks and other addictions could not be reached or accessed, there was a serious break down for many queer and trans community people.

During the pandemic, our conversations tell us that the mental health conditions of members of the community had indeed worsened and the State had a responsibility to provide support which it made no efforts to fulfil.
Many activists from the transgender community involved in relief work said that during the pandemic, two serious questions came up in front of them: first, the question of dignity of the person wanting relief support and second, the question of whether this relief work was charity or a right.

Here is where donor attitudes made a mark on people when they tried to access relief support. Some donors who came to support the relief wanted to remain anonymous and trusted the relief workers who were transgender community members. This was being very respectful of the humanity of the people receiving the relief support.

On the other hand, one of the Hijra activists shared that some donors would insist that those being funded to do relief work should distribute relief in areas where support was already being provided. There would not be an empathetic understanding that relief should reach the people who needed it especially when public transport was prohibited and when many people were not in a condition to afford private transport.
The insistence on asking people who needed support to reach the area of the donor was not just insensitive, as our Hijra activist says, it was a violation of our (fundamental) rights too as the citizens of this country.

Another transgender activist of a community organization said that some organizations and donors demanded the ID proof of people receiving the relief support. So, the people who did not have any ID proofs like that of Aadhar card, Ration Card or Voter ID could not get the relief support. At some point even government relief systems also demanded for ID proofs.

This activist shared that she refused individual donors and organizations who demanded ID proofs as this act was *direct discrimination*. She shared that during a pandemic situation it is the duty of the government and responsibility of the people to share their wealth and resources to people who do not have anything to survive. Asking for ID proof during a pandemic for relief support is like a support with conditions. She said “it is like you will access rights only if you are heterosexual, binary gendered, belonging to upper caste and belonging to the area.” She said during a disaster time where everyone is in risk of contracting the virus, when there is chaos all around and every person is striving for survival, the help offered cannot be conditional.

She further claimed, “the relief support that was being mobilized to be given to people is not alms. It is not charity. We people, whether transgenders or queer, or other marginalized people, are not begging for our survival.”
In a situation where we are not allowed to go out on streets or our respective work spaces, where there is no transport for our commuting and when we are among a public where we are already stigmatized, our dignity and our independence is at stake. This vulnerable situation cannot be read as helplessness of ‘us marginalized communities’, this situation of lockdown is created in haste, without planning, without finding a way out of the problem and to ensure COVID-19 does not spread.” Another activist and a transgender person had long time ago shared that “it is because of non-acceptance of us transgenders unlike any other cis genders who have all access to rights, that we are forced into begging. Every time my hand hesitates to put forward to beg, I think with vengeance, of being pushed into a situation which reduces me to below human level by this society”.

She also said that governments and other people who think charity is the value and motivation behind the relief work should take stock of the lives of the marginalized communities like that of sex workers and transgender community. These communities which are struggling in the society to live dignified lives are already denied rights. Their rights are compromised, there is already a social, political, economic and cultural distancing based on stigma about these communities. But they are also the people like any others, who must have all basic rights to live. Questioning, demanding proof, attitudes of charity, showing the power of the ‘giver’ leads to violation of right to dignity and right to life.

She commented especially on the stereotypical assumptions of people in power about male assigned traditionally identified transgenders such as Hijras, Kothis, Mangala Mukhis etc, that
they anyway beg for their survival so it should not be difficult or dishonor for these communities to get alms during this pandemic.

She and other two transgender activists from community organizations shared that “we are equal citizens in this country as everyone (else) and so our basic rights should be respected with dignity and equality”.

In fact, the activist from the community organization (TGTI) shared that many Hijra Gurus initially did not let the relief workers and donors go near their areas.

They made it very clear saying “in the name of charity to fulfill your need of giving, we are not beggars to receive. We also do hard work and survive. We also know to save some things for ourselves and share what we have with our community and our neighbors.” This is a strong message for the society to understand the marginalized communities and respect their dignity.

On the other hand, some donors also wanted the ‘name’ of supporting through charity the transgender community and to show they were ‘inclusive’. Some political party groups even insisted that they come with community relief workers to get photographs done of ‘them’ giving relief kits to the transgender community. While the donors wanted all these in return for ‘their giving’ to the community, the quality of what they gave was never based on even basic minimum needs for a person to survive in a dignified manner. When questioned about this many people answered back reinforcing the proverb “beggars
cannot be choosers”. “It is exactly this kind of charity attitude that breaks the emotional strength and the existence of the marginalized communities,” shared the community activist from the community organization.

Some of the community activists also shared another experience that after getting the letter from DWCD to go around in private transport to give relief kits to transgender community the police near a suburban area stopped them. They asked “where are you going? And where is the pass?”. Relief workers replied showing the letter from DWCD and they were again questioned as to who they were giving relief kits to. When these activists answered that it was for the transgender community in that area, the police (two three police men) started sizing them up. So, these activists asked the police why they are sizing them up, the police said “are you also transgenders?”. The activists replied saying “yes, we too are transgender but we are not in Satla (female attire).” Immediately the police started laughing and said “why do you people need relief support, you have enough by begging people, and you can survive in any devastation.” The activist shared that this was all usual ridicule and that they did not want to fight there, if they did, they will not get permission to go and distribute relief kits in that area.

The same activist shared a wonderful experience they had when they went to a suburban area in south Bangalore, which was a neighborhood of small homes. Many coolie workers and their families lived in that area in that neighborhood.
So, when these activists started distributing relief kits to transgender community, common people came along and started demanding the same support. At the instance where it could become into a clash between common people and transgender community, some of the seniors from the transgender community started sharing their relief kits with the common people. So, if they got 5 kilo rice, they would give 2 kilos to their neighbors. This sharing really astounded the activists about how at the time of crisis, marginalized communities show each other empathy and share resources.

While the donors used to pack materials of relief kits according to their whims and fancies, the BBMP kits actually had 2 kilos of very substandard rice with lots of germs and small stone which was unclean. It also had a rotten cucumber. To distribute these kits, the BBMP officials after much persuasion came to the area of one of the Hamams (a bath house where many male assigned transgenders live together). They started demanding the photocopy of Aadhar cards from trans community members if they had to be given the relief kits. Immediately some of the trans community activists called the BBMP commissioner and had a conversation that such proofs and its copies cannot be demanded.

When the BBMP officials started giving the kits, they only gave 150 kits (totally substandard), in which they also fought with the transgender community stating that they will not give transgenders whose ID cards are not from Bangalore. This excluded a large section of transgender community as many were from
different states and different districts. They took photographs of these officials giving the kits to transgender community. Enraged by this, the transgender community in that areas blocked these officials in the area, threw all the substandard kits on the faces of the officials. Many transgenders gave interviews about this behavior of BBMP to the news channels and other media houses.

In another suburban area in Bangalore, the BBMP gave its kits to the ward office from where corporator will have to give to the communities listed by the government including transgender community. The corporator with the attitude that “transgender community will take anything we give, in fact what we are giving is a big thing” gave even more substandard kits which could not be used by the community and was not even packed properly. One could easily figure out that these packets were broken and material was taken from it. When the community revolted against this act of the corporator, that person threatened the community people with eviction from their area. Again, community activists and senior community leaders complained to the government, Mayor and to the police. They all went to the corporator’s place and spoke to him about how this community of transgenders should be treated equally with other persons.

Some senior transgender activists shared that traditionally the Hijra community live as a house of 15 to 20 people as they do not easily get housing like other common people. During the time of pandemic one of the Hamam of Hijras cannot be seen as a family of four. The government relief kits or the donor relief kits were prepared based on the concept of a heteronormative-patriarchal
family which was husband, wife, two children. Such relief kits would hardly be of any use for the transgender community. The senior transgender activist shared that they started getting calls about how each such alternative family of transgenders were suffering and trying to survive by eating once in the day during the pandemic.

Donors based on the charity concept designed and listed things that needs to be part of relief kits could never understand the survival and equally dignity concerns of queer and transgender communities. This non empathy led to giving insufficient relief without respect.

Some donors insisted on giving cooked food twice a day in some slum areas where people had to stand in a queue to get their food. While this came with no conditions, it also came with the burden of reducing the ‘receiver’ to a state of indignity.

Our transgender activist said that if somebody is pushed into the status of ‘receiving alms’ (which is not just the transgender and queer community), it is due to unequal distribution of wealth, money and privileges of some people over other people due to caste, class, gender, religion, region, race, accessibility, etc. They also said the many Hijra Gurus refused to take cooked food saying it was below their dignity and that they lived much better doing Mankti when the situation was normal.

Yet due to the pandemic situation in some slums near another suburb towards south of Bangalore, a transgender activist and a
Hijra leader agreed to speak to her community who lived in the slum and gave cooked food twice a day for 2 months. She took over the leadership so that there will not be any humiliation or discrimination. Many transgender community people shared with the activist from the community organization (TGTI) that they did not like to receive cooked food twice a day standing in line. They shared that just because they did Mankti they cannot be seen as ‘receivers of alms’. Many explained that Mankti is not begging but it is the belief in people that if male assigned Transgenders bless then it is auspicious. When transgenders bless, they receive some money in exchange. The activist shared with us that not all Hijras welcomed cooked food, especially the ones who did not have any support and were financially not equipped. Some people accepted cooked food. Again, the same activist had to convince the donors that they will not allow photos and that while distributing cooked food some community representatives had to be present.

Another activist said that some transgender community people refused to take any kind of support from anyone as they felt they could not be treated as beggars. They stated that “we are what we are and we will survive as much as we can but we will not receive anything from this ‘Duniya’. (Duniya means general public in their language). They refused especially when the area corporator or MLA or such people in power came to give.

They shared that they did not like the attitude of those people who think “anything can be thrown at these people as they are receivers”. They felt a sense of humiliation and a loss of dignity.
Some donors would not trust the transgender community relief workers. So, they would give contract of making and distributing relief kits to the community through other companies and they would contact transgender community relief workers.

One of our transgender community activists shared that relief from the donor through middle men to the victims many times would not be in the form of how it was put together. This mistrust on the community relief workers was another kind of discrimination. Again, the community relief workers’ dignity was at stake. It is the stereotypical prejudice against the transgender community that they are “greedy and hungry”. So, they will not give relief kits to a greater number of people, they will keep the kits to themselves.

Some NGOs, donors and funders insisted even during the pandemic for written proposals for funds to be transferred so that relief could be carried out. One of our friends, a transgender activist who has had extensive experience in community support and crisis intervention, actually shared the misery of running in panic to people who can do proposal writing and applying even during the chaos of the pandemic. She was sharing that she found it extremely taxing to even get people to write and people who write with empathy. Those kinds of funders also need to be accountable, though as she said, as community activists we cannot expect the funders to be understanding. She also said that some funders did have an empathy and understanding and helped us a lot in terms of supporting transgender community people with their rents.
At one level the demand for ID proofs during the relief support was one way of violation of rights while another one was the demand for photographing each kit delivery where people receiving had to pose for the photos was another form of violation of rights. This photographing, though a claim for documentation and some form of accountability, was violative of the sense of privacy and dignity of transgender persons. Many transgender community activists and also transgender community people refused to receive relief in spite of need because they felt the loss of dignity in receiving relief to complete with the photograph! Many activists did not have the choice to refuse and felt coerced into a situation of ‘receiving’. It was humiliating because, at that point of disaster where survival was itself attacked by the situation, receiving and posing because you had to receive or else you cannot survive was to make yourselves much lesser and vulnerable without dignity.

Another activist from a community organization shared that during the pandemic lockdown there were religious groups who in the name of charity wanted the transgender community to convert to their religion and promised many facilities, while some religious groups just gave relief kits. The main issue with many donors was the charity angle which came from the concepts of the religion. Faith furthers the idea that when you give you will get back good virtues through charity. This also led many people to donate food, clothes etc during the pandemic which again was not ‘sharing’, it was also not giving with dignity. It was with a baggage to get something back in the name of religion or get name and fame during the pandemic that you ‘gave’. The activist who shared this information also shared that these
groups were trying to take advantage of the situation of the most vulnerable communities. The same activist also said that this is exactly like politicians giving money to people during elections to vote. Further, they shared that in some areas few politicians also took advantage in certain slum areas by giving rations and demanding that communities vote for them during elections. Many marginalized communities just accepted those ration kits due to their dire situations but later when the politicians were not around, they would ridicule the same person stating “oh, yeah will vote for you, keep waiting”.

In some areas, as another transgender activist shared, the goons of politicians would go to the Hamams (houses where Hijra community lives as a group of people) and in the name of transferring money amounting (of around Rs 50,000.00) would take away their ID proofs like Aadhar cards, ration cards even bank passbooks. Even Senior Hijras were conned into giving their ID proofs to the goons of the politicians. Some Hijras got back to the community organizations to check if they should give their ID proofs and were instructed by the community organizations that they should never give any of their ID proofs or bank passbooks.

Some educational institutions who came forward to donate money for distributing relief kits of ration demanded a detailed report of the names, addresses, ID proofs, photos of the people who received and what they received. These kinds of demands were extremely excruciating as the activist of the community organization shared. They said that giving details of the community means outing the community members which
cannot be done. The attitude of the donors is as if they would go to each community person to check if they have got the relief. The activist shared that “in situations of such demands, you feel like throwing away their help or support and endure hunger, if we who are involved in the relief work feel this way, what would the community people who ‘receive’ from such donors feel, how humiliated and how reduced and removed of dignity they would feel, like ‘we’ do not have any value for our lives”.

The same activist also shared that some community people who were in upper class but know the community very well took advantage of the community situation to get funds for their organizations by putting photos of the community people’s vulnerable situations in social media and writing proposals to the funders with their photos and details. The same organizations if asked for the detailed financial report of how much of relief work was done by them will have nothing to show. They said “such organizations actually in the name of community situation are stripping the community bare in front of the society with their susceptibility, humiliating the community to the core”. They also said “our transgender community is not all that vulnerable, yes we do not have same rights as other citizens of this country yet, but that does not mean we are stripped of our dignity and respect. Even while we are demanding for equal rights, we are doing it with dignity. We get our constitutional right of dignity like any other citizen of this country”. They insisted that NGOs and organizations who take money in the name of the transgender community should be accountable to the money they receive and also should be able to show their work in accounts openly to public.
A trans woman activist and her partner who is trans man and an activist shared a shocking incident of neglect in relief which, they said, shows the attitude of disregard and disrespect for the marginalized communities. They said a particular political party which is growing in Bangalore decided to support transgenders with relief kits and they approached them stating their interest to support 150 trans community people. So, the donors asked for a list of 150 trans community people. These people spoke to them and included the most vulnerable in their area along with trans community persons and prepared the list. They also informed the community that they would receive the support soon. After giving the list the donors did not respond for 10 days. Community people started asking about the support. When she called the contact person they did not respond. After about 10 days, they brought the relief material kits and dumped it in her house. She has a medium house with at least 8 people staying so she could not put the relief material inside her house. She put it in the compound which is open. Now there was a new kind of problem, as since people around are in such dire situations if anybody come to know that relief kits are there, they could just take it. She was also worried that there would be an accusation that she in the name of community has hoarded the relief material for herself. The donors kept postponing the distribution as they wanted to distribute it to people with photos and other things.

This started enraging her that she not only had to hoard the material but also had make her people watch for it 24 hours till they came. This attitude of no sense of time, no sense of promise, no sense of immediacy to attend to the relief work and
irresponsibility in providing relief irritated her. She called the person whom she knew closely in the political party and shouted at them about this behavior. Immediately she started receiving calls asking her to wait for 2 hours and get the 150 people so that ‘they’ would come and ‘give’ the relief kits. Again, they delayed coming to her place till late night and by then she had to organize the communities who had come to stand in a queue and wait for them to come and start giving. This angered her and all the people involved in the relief work. As is the practice of giving tokens so that people will not get double kits, they gave people tokens and waited. When the political party workers came, they fought with her that they would give their political party tokens again to the standing queue. At this time, she lost patience and screamed at them and fought with them saying that she will throw away all the relief kits and that people who had gathered there are not people without respect and that they should be treated with indignity. Then the political party people agreed to put their stamp on the same token. She just let it go as the night was growing and people also had to get back to their places which were not nearby. Even when she shared this incident with us, she was fuming with anger at the behavior, attitude and callousness of the political party workers, working to brand and promote their party at a time of deep crisis. She also said that many of the donors she contacted respected her demands of doing the relief work with dignity but this political party destroyed all those values. She shared that these kinds of donors would never have experienced the ‘frustration of hunger’ that marginalized communities experience in those crisis times yet are forced every time a donor wants to ‘give’ to stand in queue, receive only what the ‘donor gives’
though their basic needs in that crisis were so serious that it was impossible to be patient. She said that this need to be patient in the face of hunger is something that other people in power and affluent castes and classes will never experience.

Our trans man friend from Chikkaballapur shared that the airport authority people also took to relief work and gave people on the border of Bangalore and Chikkaballapur and Doddaballapur districts packets of wasted food from Airport. He said that this food was not in a condition to be eaten. He shared “as it is, when it is people with disabilities people feel, they are deemed to live without respect as they cannot participate fully like other able-bodied people”. He continued sharing that “if you are also a migrant or a trans person or a person with something different along with being a person with disability you are definitely a receiver without dignity and respect and nothing more than that”. He said “often people with disabilities, transgender communities and people from the marginalized communities are pushed into such situations of dire needs because other people as in people in power, from dominant caste and upper class take on more than what they should. They never think of equal sharing as a principle”.

Another very strong and disgusting donor attitude that was experienced during the COVID relief times as shared by one of our trans men activists was a very similar action which many middle-class people would do with beggars. Many middle-class people commonly treat beggars saying that they would rather give beggars food than give them money.
Donors took to the same attitude that they will give them what the receivers wanted and will not support with money. Due to this attitude many people who availed relief could not have a choice in what they needed or how they would manage their families and expenses through the lockdown. Like the activist shared, some may need rent, some may need grains, some may need to pay for their medicines but if only relief kits which were envisioned based on these middle-class attitudes were given, what is the point of ‘giving’. It again shows that the ‘giver’ is giving ‘alms’. They continued to share that the donors would also doubt the ‘receivers of relief’ to take advantage of the situation and make money.

The donors with all their education and money lacked the understanding that relief work cannot be conditional. Ethics of relief work demands that respect is accorded to all as moral equals. At the time of a disaster, (which is what the State treated the pandemic as), there can be no qualifiers to ensure survival of the vulnerable. While they had all the means to understand this, they continued to be demanding elite donors who proudly carried the attitude of – ‘oh we are so kind, we are saving you.’ It was their egos that had to be coddled.

Activists and Community Organisations were forced to battle both the effects of the pandemic (rather, of the lockdown) as well as the deplorable attitudes of donors and the State towards

them, towards their identity. The battle of the trans community to reclaim spaces in socio, cultural, political and economic spheres is long standing. In these desperate circumstances also, they did not compromise their stance in this battle. They remained persistent in their demands to be treated equally and with dignity. Through their negotiations with the state and donors for the extensive relief work they did, the message of assertion of dignity was heard loud and clear. They refused to view relief work as ‘charity’ and refused to be treated as beggars.

The assertions of dignity of the community members brought to life the dream embodied in the Preamble, “WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India….:: to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation”. One is reminded of the articulation of the right to dignity by DY Chandrachud in Justice K.S. Puttaswamy v. UOI29,

“107. To live is to live with dignity. The draftsmen of the Constitution defined their vision of the society in which constitutional values would be attained by emphasising, among other freedoms, liberty and dignity. So fundamental is dignity that it permeates the core of the rights guaranteed to the individual by Part III. Dignity is the core which unites the fundamental rights because the fundamental rights seek to achieve for each individual the dignity of existence.”

29. AIR 2017 SC 4161
The assertions of dignity made in the previous chapter leave a resounding effect. The contexts in which these iron clad assertions were made render them as empowering accounts. Amidst (continuing) battles against discrimination manifesting as violence, untouchability and legislative exclusion, these assertions of dignity were proclaimed.

It was an extremely difficult situation for many queer and trans persons who are not accepted by their family, neighbors and relatives, getting stuck in their family homes and not getting a chance get out of the toxic atmosphere. Queer people, female assigned and male assigned people called on different helplines of different community organizations (basically 2 helplines in Bangalore) requesting for support in various issues like:

1. Shelter for those who did not have homes or were in transit or who wanted to return to homes or even people from other districts and states requesting for places to stay during the lockdown.
2. People who could not bear violence by family and relatives wanting to run away from homes and migrate to Bangalore.

3. People looking for employments as they lost their jobs due to COVID lockdown.

4. People facing domestic violence from their partners (queer and trans and cis genders)

5. People who wanted ART facilities and other nutritious food to reach their homes as they could not move out due to lockdown and their own illness.

As shared by the organization team that works for the female assigned queer and trans communities, there were many pressing cases of family violence which led to police negotiations. Usually, the organization with their advocate would go to the jurisdiction police stations and speak to them about the case and negotiate. If not received properly, they would go to the higher-up police officials like the DCP of the jurisdiction and finally to the Police Commissioner. During the lockdown they were forced to talk to police inspectors in the station over phone. According to one of our activist friends from the same organization they had to keep calling over and over to make the police realize that even during the COVID crisis, which according to the police was the only crisis, they had to deal with other cases too which were equally
important. She said that police thought that Indian Penal Code, Criminal Procedure Code and Fundamental rights ceased to exist during the COVID crisis and affected people had to demand that their crises be attended to. The police took advantage of the COVID crisis and acted as if they were not bound by any laws. She said the police also had to run behind COVID positive people who escaped from isolation wards and do a lot of COVID curtailing support work. The Police were also scared as many of them were tested COVID positive. But that was not an excuse to not attend to cases of domestic violence, or torture on queer and trans people by their families.

The same organization team also shared a serious case of humiliation in one of their crisis interventions. When two activists, 2 trans men who work on transgender rights issues were forced to visit a police station in Bangalore, they saw that police people used social distancing as tool to scream at people to keep distance. Even while they were standing in a proper distance, the police would not attend to the case, they would just ask them to put the complaint with one of the constables. The same two trans men went to another police station where at the entrance they were not even given information whether the inspector was in the station or not just because they said they were transgender. The moment they said they are transgenders, the constables in that police station moved away as though these trans men came there on purpose to spread Coronavirus.

Later, after much insistence, when they met the inspector with the
domestic violence survivor, the inspector again screamed aloud to keep distance. He said “I don’t like people talking. People especially transgenders should just give the complaint and go away.” This, the inspector without knowing what the complaint was, told the trans men.

The trans men tried to tell the inspector that the complaint was not about them but about a woman taxi driver who was facing domestic violence. The police then screamed saying “if the complaint is not by you why are you speaking. I don’t like you people speaking. Stop speaking and go away. Where is the woman? Let her speak.” The two trans men were actually supporting the taxi driver woman who was trying to file a domestic violence complaint on her partner. The police did not even listen to her and screamed just to hand over the written complaint with the writer of the police station. When again one of the trans men asked if they would file an FIR, the inspector screamed at the trans man saying “are you teaching me law, are you teaching how to file FIR, I will get you arrested if you talk more.” The two trans men came out totally frustrated and humiliated. Just when they were stepping out one more police person came out and started trying to creepily talk about the woman who came there with the trans men. He said “she is a woman who has another woman partner and they do ‘that’ kind of sex”. At this point both the trans men shut the police saying they know the case and that it is not unnatural anymore after the decriminalization of 377 by the Supreme court in 2018. Then the police man sleazily started looking at the trans men like as though they along with the woman were ready for sex for anybody. The team and those activists felt that police can only get worse in such times and definitely not better.
The same organization also had a tie up with another Christian institution for their shelter which shut during the lockdown. This led to a series of problems where the organization could not offer shelter. But that did not stop the queer and trans community people to escape from their homes and come to Bangalore seeking shelter. During the lockdown, the organization team members had to give shelter to the runaway queer and trans people in their personal homes once or twice.

On the other hand, the male assigned trans community people mainly face not police brutality for soliciting but rather police violence for merely being in a public place. One of the trans woman activist who runs the helpline received most calls which were about being left out of relief support. She also received calls from PLHIV trans persons who could not avail ART or nutritious food and some old PLHIV trans community who were looking for shelter or support spaces. Relief support was extended and to an extent even the ART and nutritious food support was possible but shelter as such many trans women/Hijras opened their houses to trans people who had no homes to live in.

There were calls to other transgender activists on their personal phones from districts of Karnataka requesting for help in terms of relief support from the local administration. So, one of the trans woman activists who works in the organization which is all over Karnataka took up the work of calling each local administration in districts and asking for relief support and linking the local community organization to take up the work of relief.
This period also saw a lot of community people losing jobs as many were employed in small jobs or organizations which worked with small funds. Many of our own friends who are activists did not receive salaries for almost 4-6 months. They were desperate and dependent on relief support systems which could provide not all but very little; very little means, not something to survive.

The continuous humiliation faced by the activists and members of the community organizations at the hands of the police, shows that the police was derelict in their duty to the Constitution and law of the land. It is pertinent to point to the two corner stones of the constitution - Article 14 which states, “No person shall be deprived of his life or liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the law within the territory of India,” and Article 15 which prohibits discrimination of a citizen on grounds of religion, race, caste, sex or place of birth. Given that there was no declared emergency, both these fundamental rights were necessitated by our Constitution to be in force. While the action of the State and society, was as though fundamental rights were suspended, legally they were not. The reality was that it was a situation of undeclared emergency and members of the community were discriminated against every day.

30. Article 352, Proclamation of Emergency, Constitution of India, 1950
6.1 Social Distancing: An excuse for the practice of Untouchability

The fear of COVID-19 spread in such a way that so-called ‘social distancing’ translated into physical distancing which morphs into a form of untouchability practiced in India due to caste. The still pervasive caste system in India justifies hierarchies and discrimination and also relies on “social distancing”, which became a natural fit in the current pandemic for those on top of the social hierarchy. This added further layers to the impact of pervasive patriarchy. Many people with middle class ideas of Brahmanical purity which is ostensibly about practicing hygiene but manifests itself in brutal ways as caste discrimination, especially on marginalized communities. We find that there is a hate-filled gaze that the well-settled middle-class people show towards the marginalized communities on streets and other public shared spaces where there are people who cannot afford face masks and other accessories. The same behavior was manifested by many in different contexts of the struggle for survival during the pandemic like in relief work, on streets, negotiating with police and other public spaces.

During the pandemic hospitals, clinics, pharmacies and other health providing services were filled with such manifestations of brutal untouchability. The practice of untouchability is a direct

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attack on a person’s dignity. While delivery service people were seen as potential people who spread Coronavirus, the people who worked on small things or street-based livelihood were seen with similar lenses of contempt and dishonor. Small or other kinds of ailments were seen with the lens of Coronavirus.

As one of our activists shared, working-class people and especially transgender community people could not even get a paracetamol also easily. The health care providers or pharmacies insisted on testing for COVID 19. Not all transgender community people could afford to get tested for COVID or go into isolation places.

Initially, both the COVID test and isolation/quarantine was extremely unaffordable to the common people and totally inaccessible to transgender communities. For many people, home quarantine was also difficult as many transgender people did not have even rented houses where they would live alone. Most of the transgender communities (female assigned and male assigned) live with friends and groups of transgenders among whom are also people living with HIV. There are people with other ailments like diabetes, BP, heart problems, side effects of hormone treatment etc who need medical supervision frequently. This opens both PLHIV patients as well as non PLHIV patients to vulnerability.

One of our trans woman activist shared about her friend who was also trans woman who fell sick by the fag end of the lockdown. She was not having any symptoms of COVID but had abdomen
pain and severe fatigue. She was getting worse day by day. She lived in the south of Bangalore.

Our trans woman friend who spoke to us shared that there was not a single hospital, clinic and nursing home was left, where they had not taken her. And everywhere, they were turned away saying either there are no beds or that they wanted her to get COVID tested. Sometimes no reason was given for not treating her. Our friend shared that; doctors refused to even do a checkup because she was transgender. Their speech, behavior and stances were always colored with disgust and abhorrence even while giving information.

Finally, after losing so much time going round and round to get her admitted in the hospital, she got admitted in a government hospital. The diagnosis was Jaundice and a liver issue. In the hospital she also developed COVID. Our trans woman friend was supporting her, shared that she would call her every day from the hospital and cry asking her to get her out as she felt extremely alienated in the hospital.

When one of our transgender (Panthisatla Kothi)\textsuperscript{32} activist who worked extensively in COVID 19 relief themselves turned COVID positive by the end of July they had to face problems in terms of

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\textsuperscript{32} Feminine identified male assigned person.
where they were admitted and how they were treated in that health center. The health care providers in the health center run by the government for COVID did not even attend to the COVID patients properly. After 5 days our friend came out and went into quarantine. They were sharing that not every trans community member could afford that kind of isolation/quarantine space while many trans community persons did not even have proper salaries to survive.

A team of workers from one of the organizations that works for female assigned transgender people shared that the ‘social distancing’ was actually not social distancing but ‘physical distancing’ which replicated the dominant caste untouchability practice now in this situation with stringent actions of hyped hygiene sensibility. They shared that in many public places many transgenders whether female assigned or male assigned have had faced social distancing from dominant castes, upper class heteronormative people which actually amounts to exclusion or silencing the presence through not allowing for participation in meetings, social gatherings, protests and parties. Now, they said, another layer also added to this social distancing which was physical distancing. So, acts like hugging or handshake or even acknowledging through smiles or any such actions went totally missing which could reaffirm the presence and existence of the queer and transgender people.

One more male assigned transgender activist spoke in detail about how this ‘social distancing’ actually furthers the social stigma on marginalized communities like transgenders in the name of hygiene, science, spread of virus and the biggest prejudice drawn
from Brahminism being ‘cleanliness’. They also said that the transgender community themselves will not realize this kind of distancing unless it is explained to them. They shared that how public during the lockdown and when the lockdown was removed were prejudiced about delivery boys of food delivery systems the same prejudice started operating on sex workers when they returned to sex work soon after the removal of lockdown. They said that with social distancing this attitude could be felt in actual life while standing in queues in public spaces like banks or in super markets etc.

Through the gaze of the general public, we can make out that they are feeling like we do not have a right to stand in their line but unfortunately, they cannot tell us, as this is a democracy. Had this been casteist rule I am sure we would have heard it from people”, they shared. The transgender group continue to be the victim of a form of caste hierarchy practiced vehemently in different spaces under the guise of ‘social distancing’.

In India, ‘social distancing’ invokes, and mirrors, distinct social histories of preservation and upholding of caste hierarchies. Social distancing has for long been a central principle and key weapon in the coercive regulation of caste. The repeated usage of the term ‘social distancing’ by the media, the government, the NGO’s, made it a norm. This was done with no consideration of

33. The History of Caste Has Lessons on the Dangers of Social Distancing, Retrieved from https://thewire.in/ caste/social-distancing-dangers-india
the impact that using a term like ‘social distancing’ could possibly have in a deeply casteist society.

Article 17 of the Constitution is an attempt by the framers of our constitution to abolish the practice of untouchability prevalent in our deeply casteist society. The article forbids untouchability in all forms. As Santanu Kumar Das, member of the Drafting Committee of the Constitution articulated, “this clause is intended to abolish inequity, the social stigma and the social disabilities in our society”.34 When an amendment was moved to specify untouchability based on religion and caste to be forbidden, this amendment was negatived. DY Chandrachud in deciding the issue of denial of women’s entry in Sabrimala, relied on the Constituent Assembly Debate Proceedings and observed that the Constitution framers deliberately did not define untouchability or limit it to a particular identity 35. He observed,

“Article 17 occupies a unique position in our constitutional scheme. The Article, which prohibits a social practice, is located in the chapter on fundamental rights.

Article 17 abolished the age-old practice of “untouchability”, by forbidding its practice “in any form”. By abolishing “untouchability”, the Constitution attempts

35. Indian Young Lawyers Association and Ors v. The State of Kerala and Ors, (2018) 7 MLJ 889
to transform and replace the traditional and hierarchical social order. Article 17, among other provisions of the Constitution, envisaged bringing into “the mainstream of society, individuals and groups that would otherwise have remained at societies bottom or at its edges.” Article 17 is the constitutional promise of equality and justice to those who have remained at the lowest rung of a traditional belief system founded in graded inequality. Article 17 is enforceable against everyone – the State, groups, individuals, legal persons, entities and organised religion – and embodies an enforceable constitutional mandate.”

Members of the transgender community are socially backward individuals and at the bottom of the so-called social order/hierarchies. Their identity for decades together has been subjugated by the society. In NALSA v. UOI and Ors 36, the Supreme court in its direction specifically stated, “Centre and State Governments should take steps to create public awareness so that T.Gs. will feel that they are also part and parcel of the social life and be not treated as untouchables.”

There is no doubt that members of the transgender community have been treated as “untouchables” for years. This attitude, especially during the pandemic towards them worsened. They were thrown out of public spaces, consistently harassed. The
treatment meted out to them by both the State and the society towards the transgender community was horrific. The social stigma against them made even spaces like hospitals inaccessible.

Citing DY Chandrachud, “Any form of stigmatization which leads to social exclusion is violative of human dignity and would constitute a form of “untouchability” this treatment meted out to transgender community in the name of “social distancing” must be seen as a practice of untouchability. Especially given how the community is placed in the social order.

### 6.2 Operationalizing the Transgender Persons Act to further disempower the community

This was an issue of crisis that was pointed out to us through many of these conversations with us on COVID relief and discrimination. The Government of India released the Transgender Protection of Rights, Rules 2020 in April during the peak of the pandemic. A terribly short deadline i.e., 8th May 2020 was given to submit responses to these rules. After much protests from the community across India, the GOI extended the deadline for responses to May 18th 2020. As though discrimination by way of harassment, denial of treatment, access to basic food, shelter was not enough, the State notified the Rules under the Transgender Persons Protection of Rights Act, 2019 on 25th

37. Indian Young Lawyers Association and Ors v. The State of Kerala and Ors, (2018) 7 MLJ 889
September 2020 amidst vociferous protests by the community members against the constitutionality of the parent Act.

When most community activists were struggling to support the community members with food, healthcare, shelter they were compelled to deal with the panic that these rules brought. Forcing the transgender community during lockdown to have consultations across the country to respond to the government rules of the Act was simply direct discrimination.

The government did not pay any heed to how most communities who are affected by these rules did not have means or language proficiency to engage with the draft rules. Expecting the community members to access online consultations which is impossible for them since trans and queer community all over the country cannot afford internet, phone etc, is willfully ignorant of the Government and comes from a place of privilege. Across India only transgender persons both male assigned and female assigned who had some financial stability and social security could access online consultations but the large amount of populations of transgender community dependent on livelihood on streets like that of male assigned people dependent on sex work or Mankti and female assigned transgender community dependent on coolie work, construction work, small jobs in super markets, flower markets, courier companies, NGO work, etc could not even access them. They did not even know about the rules, understand the impact they were set to have on their own lives. It felt like the GOI did not want to reach out to the entire transgender community.
It wanted to notify rules which spoke of discrimination against the transgender community, but itself discriminated against the transgender community in the way they notified them, without realizing this double standard. Even the people who could afford to be part of the consultation protested the final draft of the rules. They were promised by the GOI that they will be taking suggestions of many trans groups across India. But and this ‘BUT’ becomes important because ultimately what came out of Transgender Protection of Rights Act Rules 2020 was nothing of what even the ‘miniscule minority’ community (which could access and represent the rest of the transgender community) requested and demanded.

The transgender community was totally devastated because of these rules which all of our respondents openly spoke about. All of them echoed that this was the most prominent discrimination from the GOI that happened on transgender community people.

Without going into the substance of the rules, such bulldozing of rules is discriminatory for three reasons. Firstly, no effort has been made to make the rules accessible in multiple languages or have stakeholder engagements with the people it directly affects. Secondly, such a short time frame to respond to rules that are life altering for community members is wholly unreasonable. Thirdly, there was no urgency to notify these rules in such a hurry. At the time of the pandemic, the community members were struggling to survive and their lived realities as our report shows were not set to change with neither the Act nor their rules.
While the COVID lockdown wreaked havoc, bewilderment and chaos amongst people, the unlock process is not any better. With no proper systems in place for communities dependent on street-based livelihood, the unlock resulted in experiences of discrimination and humiliation. Many trans men had to again hunt for jobs. For trans men hunting for jobs would not just mean like others trying to get a job. It means either they out themselves and get a trans friendly working space or not out themselves and work till they are suspected of their gender and forced to shift to the next. In the beginning of the unlock phase where certain restrictions were still in place, the job prospects also reduced as many small businesses and working areas shut down due to losses. Many trans men had to wait for more than six months to get their salaries to gain some stability in their lives. It was a process of reconstructing life block by block for many trans men. As one of our trans men shared with us, it was also a period of series of ailments and not just COVID. Many ailments (including small) could not be treated as there was no money with trans men for both themselves and their partners/accepting family members or friends. When we spoke to one of our trans gender friends we realized one of his friends also was also delaying treatment for his
severe body pain due to lack of financial resources. He had spent his salary and his partner’s salary for relief work so much that he himself did not have money for his treatment.

On the other hand, it was worse for trans women whose livelihood are based on sex work and Mankti. As our trans woman friend shared with us saying “many young trans women who started going out to public for Mankti, geared themselves with masks, gloves and socks. Yet, they were mercilessly humiliated by shopkeepers and public with statements like, “Couldn’t you have died with corona, why do you people still live and for what?” She continued that in sex work the behavior of many clients were extremely ridiculous. They would just use the opportunity to abuse trans women sex workers by touching them inappropriately to figure out if they have Corona or not in the field. This behavior was atrocious as one cannot touch to figure out if one is COVID positive or not.

Further many trans women who regularly visited some shops for Mankti had to find new areas, unknown and alien to them, for their Mankti because their regular shops, were shut down due to loss during lockdown. She shared that in the unknown and new areas the business shops and small shops people would chase these trans women like they would chase away sick dogs with disgust and hate.

Another transgender activist shared that the public post COVID looked at transgenders differently. To quote them as
is in Kannada “Avaru Onthara Nodthare” (they stare weirdly). Conversationally, the Kannada word ‘Onthara’ is used to connote a mixture of many disconcerting emotions, in this case extreme discomfort felt by the person who gets stared at. A Hijra activist shared with us about a young trans woman who came crying to her when she went to sex work after the unlock. She shared that the young trans woman was in severe distress as she faced crass remarks about being trans and doing sex work. She shared that the clients would say “so, you are back in the field to spread HIV and now Corona, so you guys have Corona in your mouths and HIV in your cunts, how come you survived Corona”. Some clients even while they were having sex with these trans women would pass comments targeting these trans women as the reason for the spread of corona. She was begging our Hijra activist to help her set up a business where she could at least not get abused like this.

Discrimination of the transgender community has been the norm for decades. Only this last year, it was with the excuse of the pandemic. Post the unlock, the systematic discrimination the transgender community has only increased. Relying on street-based livelihood comes with humiliation like never before. While the government claims to have (questionable) plans to revive the formal economy, there are no charted paths for the informal economy and the invisibilised workers in it. Life post the pandemic and in the slowly restarting economy looks grim for community members given that no efforts have been made to dismantle the systems of oppression against them or generate livelihood. Their lives continue to be treated as expendable, identical to how they were treated during the pandemic.
A year after the lockdown, at the outset we must first evaluate the decision of the State to impose a lockdown the country. In order to critically evaluate this decision, we must answer two central questions – firstly, was lockdown the only solution to prevent the spread of the pandemic. Secondly, what was the impact of the lockdown on especially vulnerable and marginalized communities.

To answer the first question, we rely on Cardo Caduff’s impeccable evaluation of the lockdown decision through a socio-political economic lens:

*Nationwide lockdowns are not a solution. They prevent infection as long as they are in place, but they also keep people susceptible. This is particularly concerning in a pandemic where the virus has become endemic. Once lockdowns are lifted, the number of infected people may well rise again later. This is why it has been so hard for countries who adopted this strategy to return to normal life—the strategy is not*
sustainable over the long run.\textsuperscript{38}

The underlying principle of a lockdown is characterized as “dangerously wrong in principle itself” by Harsh Mander who also argues that the national lockdown is not a solution. He argues that the “lockdown was disastrous public-health, disastrous economics, disastrous sociology and unconscionable ethic. It was unforgivable for a country with enormous historically embedded economic and social inequalities.” \textsuperscript{39}

The government’s decision reflects lack of understanding of socio-economic reality of majority of the population they are duty bound to govern. They did not foresee the impact this decision was likely to have on them, and even if they did, their actions did not reflect this understanding. Contrary to government’s lack of understanding of the impact of the lockdown decision on India, two economists in the paper India’s Lockdown: Interim Report\textsuperscript{40} foresaw the consequences of the lockdown: “The problem is that in India, and without the shadow of a doubt, an economic lockdown will entail the widespread loss of life. There are lives that will be lost by lockdown-induced conditions of starvation, ill-health, violence, a rise in indebtedness, and persistent loss of incomes and livelihoods. Without sustained and comprehensive protection to those at risk, the entire philosophical question of


\textsuperscript{39} Mander, H. (2021) Locking down the Poor: The Pandemic and India’s Moral Centre, Speaking Tiger

whether a human life has finite value or not is far less relevant.”

As Carlo Caduff articulates, “a virus causes disease, not hunger. It is not the pandemic, but the response to it that threatens the livelihood of millions of people.” In sum, the lockdown decision was principally flawed, inhumane to the majority of the people who reside in this country that the government is constitutionally obligated to take care of and it served to no end, except to expose a broken system. He goes on to state, “The lockdown is a political mechanism not simply for the prevention but for the redistribution of negative effects. Lockdowns shift negative effects away from hotspots of public attention to places where they are less visible and presumably less serious. In this way, they are part and parcel of a politics of inequality. This pandemic is not just about health, it is about fear, and the objects that are singled out and then made the ground and motivation of systematic thought and action.”

There is no doubt that the pandemic disproportionately affected already vulnerable communities such as poor, informal sector workers, migrant workers, women, Dalits, Adivasis and, as this report has demonstrated, the transgender community and the gender and sexual minorities. This disproportionate impact is owing to deeply rooted patriarchy, casteism, classism and injustice in our system. Ray and Subramanian in the same interim report provide us with a carefully crafted question to ponder upon: the question of lives versus lives, “In India especially—and in poor countries more generally—it is a not a question of lives versus economics, it is a question of lives versus lives. Or more pertinently, it is a question of which lives have greater visibility. The lives that
are lost through violence, starvation, indebtedness and extreme stress, are invisible.” 41

Though this analysis has not been written with a gendered lens, if one is to consider the lives mentioned to be that of a gender sexual minority, we know for certain that they will be the most vulnerable of the vulnerable.

All the conversations we have had in the course of the report illustrate this question in terms of how some lives are treated as more important and worthy of saving than others. It is as though one is living in Orwellian times where “All animals are equal but some animals are more equal than others.” This unjust system was well in place and operation before the pandemic. The pandemic merely exposed this broken system.

Supplementing this argument, evidence from our conversations with the transgender community points us to the lived reality of the community – loss of livelihood, denial of food and shelter, struggle to access basic healthcare, direct discrimination by the Police and the state during the pandemic.

The decision to impose a lockdown by the State left the transgender community struggling to survive, much like the migrant workers, Dalit women, Muslim street vendors and many other vulnerable and marginalized groups. Neither are national lockdowns a

41. Ibid.
solution to the pandemic nor are they an apt response for reasons demonstrated above. Even if for purposes of governance, one is to accept that a lockdown is an executive decision, it is a decision that must take in account in the future the question that – what is the impact of such a lockdown on the dignity and life of the most vulnerable in the State? It must be an indispensable consideration for the state in making in any such decisions.

The State’s policy response to fulfill the needs of the gender sexual minority and the transgender community was devoid of the basic understanding that for people of the community, they have their alternative family set ups which are far from the heteronormative understanding of a family.

Policy responses were based on and intensified existing inequalities of class, caste and gender. The class divide was most evident in the prevention measures that were imposed on the population, as noted above, since these presumed living conditions available only to middle classes and elites and could not be implemented among the urban poor and many rural dwellers. 42

This heteronormative understanding of a family finds its place even in schemes that are for fulfilment of basic needs of food,

shelter and employment. Schemes such as PM Awas Yojana\(^{43}\), MNREGA\(^{44}\), the Public Distribution system all require a proof of identity in the form or Aadhar or a proof of residence. Both of these proofs are not easily accessible to members of the transgender community, especially proof of residence. Since members in the community do not live in a heteronormative family setup in a fixed home, they do not have a formal rent system making it impossible to provide any proof of residence. Similarly, proof of identity means disclosing identity to the State which in a lot of cases leaves them vulnerable to stigma and discrimination.

The same presumption of a heteronormative family is found in the policy of relief distribution work done by the State for the community members during COVID-19, thus, excluding the transgender community and gender sexual minorities from accessing these basic needs. The state must actively move away from this discriminatory patriarchal notion of family and accept the alternative setup of families that gender sexual minority and transgender groups function in, especially for schemes and policies that are made for their welfare.

Based on the experience in the pandemic and the experiences of community for 70 years now, the members of the community have little hope especially from this government. In ordinary circumstances this would result in hopelessness, and yet, conversations around dignity in Chapter 4 shows the extent

\(^{43}\) Retrieved from http://pmaymis.gov.in

\(^{44}\) Retrieved from https://www.nrega.nic.in/netnrega/mgnrega_new/Nrega_home.aspx
of effort that the members and leaders of the transgender community are taking in claiming their rights, especially the right of dignity from not only the State but also the society. Through their actions and repeated assertions of identity proofs such as denying photographs, names etc, they reminded donors that there are in fact ethics to relief work. Relief work is not based on underpinnings of ‘charity’ but on the fundamentals of respect for the ones who are being supported.

The members of the community at every juncture must be treated with dignity which is a fundamental right. These assertions of dignity heard in conversations with the community members are in essence the voice of the community. As the Supreme Court held in Puttaswamy v. Union of India, “the dignity of an individual, equality between human beings and the quest for liberty are the foundational pillars of the Indian Constitution.”45 Dignity can be seen as the other of humiliation and as core principle which defines what it means to be human. Protection of dignity of the individual is the cornerstone of Constitutional edifice.46

Despite these vociferous assertions, when one asks the question of did the State fulfill its constitutionally responsibility towards the transgender community, the answer is abundantly clear. Through the conversations documented and contextualized in the last 50 pages, the choices made by the government in

45. AIR 2017 SC 4161

relief distribution, in making healthcare accessible, in ensuring mobility, it is evident that the Government failed in fulfilling its constitutional responsibility. And that they do not care at all. In fact, we observe that the State at every step of the way hindered the community leaders and organizations from fulfilling these assertions of dignity. The police that used brute force against community members, even those who were trying to do relief work. The hospitals and police stations that were denying them support in situations of crisis.

The State was a torch bearer of casteist attitude by internalizing the mantra of ‘social distancing’ knowing fully well that social distancing can be practiced only by the privileged and it is a manifestation of the practice of untouchability. In all ways possible the State has illegally subverted its constitutional responsibility.

Given these testing times which were made worse by the Government, the extensive work done by the community organizations and the community leaders to support their own and those in distress is the personification of the sense of fraternity that Ambedkar imagined. In his words in the Constituent Assembly Debate, “Fraternity means a sense of brotherhood of all Indians…It is the principle which gives unity and solidarity to social life.”

It is in this spirt that we salute all our friends who

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not only fought the pandemic but also the exacerbated forms of discrimination that came with it. While the government does not care at all, through radical love, kindness and the direction provided by our Constitution Drafters we will claim and reclaim our space in this democracy.
Arise brothers, lowest of low shudras wake up, arise.
Rise and throw off the shackles put by custom upon us.

Brothers, arise and learn.
We will educate our children
and teach ourselves as well.
We will acquire knowledge
of religion and righteousness.

Let the thirst for books and learning dance in our every vein.
Let each one struggle and forever erase our low-caste stain.

-Savitribai Phule, Arise and Learn
Rumi Harish

Rumi Harish is a musician and a Human Rights activist who started working on women’s rights issues in Hengasara Hakkina Sangha. He then started working with Powrakarmika union on the first survey on the wages of Powrakarmikas in the year 1999. Later Rumi worked in different NGOs and joined Sunil with his work and from 2005 has been working assisting Sunil Mohan in his research studies and projects.

Rumi Harish has written 3 plays scripts and worked as music director for different documentary films and theatre plays. He has also directed music for the Kannada feature film Kaudi. Rumi has been working with different movements like that of sex workers movement and is working towards producing artistic material to bring out the issues of social resistance in public. Rumi Harish identifies as a queer transgender person and is working along with Sunil in Alternative Law Forum in the non-discrimination study.
Sunil Mohan

Sunil Mohan was Kerala State Women’s team Cricket Captain. He came to Bangalore completed his Electrical Diploma and started working in different NGOs for the rights of marginalized sexualities and genders. Fed up with the kind of work he was doing in the NGOs, he started working independently on research work through community consultation process under the fellowship of Alternative Law Forum in the year 2010, and published a report called “Towards Gender Inclusivity”. He has worked on Oral history documentation of LGBTI people across south India with the fellowship of CCDS Open Space Pune and collected videos of 24 marginalized sexualities and genders.

He along with Rumi Harish started a study on non-discrimination at Alternative Law Forum. Together along with ALF team they wrote the report called “Conversations on Caste Discrimination in South India” after conducting more than 95 conversations across South India. Sunil, Rumi and Radhika Raj worked together on the TISS supported research
study called “An Exploratory Study on Discrimination on Non Normative Sexualities and Genders”. In this Study they worked together on a report on public discrimination on non-normative sexualities and gender along with a play script called “Liberty Begum” based on the community sharing about an all-inclusive space. Sunil also started Raahi, an organization working for the rights of marginalized genders and sexualities in 2018 and is the Managing Trustee of the Organization. Sunil identifies as a Trans Man. Sunil is presently continuing with Alternative Law Forum as a research consultant on the non-discrimination project and also working in Raahi as Program Coordinator.
About ALF

ALF was founded in March 2000, by a collective of lawyers with the belief that there was a need for an alternative practice of law. ALF recognises that a practice of law is inherently political. ALF provides qualitative legal services to marginalised groups; conducts autonomous research with a strong interdisciplinary approach working with practitioners from other fields; acts as a public legal resource; operates as a centre for generating quality resources that make interventions in legal education and training; and is a platform to enable collaborative and creative models of knowledge production.
The Alternative Law Forum is a collective of lawyers invested in an alternative practice of law. ALF has a commitment to respond, through litigation and research, to issues of social and economic justice.