

# Human Rights Violation in India and China during COVID-19: A Comparative Study

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## ABSTRACT

Human rights are privileges that we enjoy merely by virtue of being human; no state has the authority to bestow them. No matter our nationality, sex, ethnicity, race, color, religion, nationality, or any other status, we are all endowed with these universal rights. The most fundamental of them is the right to life, followed by those that make life worthwhile, including the rights to food, education, employment, health, and liberty. These human rights were and are being severely violated during the COVID-19 pandemic and lock down period. This essay compares and contrasts these transgressions in China and India. India and China are two of the world's fastest growing economies. In Both countries, human rights records are below average. China has the world's greatest population; whereas India has the world's second highest population. As a result, in order to attain the aim of international human rights law, it is vital to preserve human rights in these countries. This study employs a descriptive, analytical, evaluative, and comparative methodology. Similar to earlier pandemics, COVID-19 has resulted in a wide range of human rights abuses throughout the world, from censorship and the suppression of criticism to the disproportionate use of police force. Minority groups and immigrants have discovered that they are disproportionately prone to abuse, as well as to stigma and violence associated with COVID-19 and this study aims to highlight these violations in India and China because this pandemic has worsened human rights worldwide and it is important that these issues be discussed for generation of credible solutions.

**Keywords:** Human rights; COVID-19; Pandemic; Lock down; Economy

## INTRODUCTION

Simply by virtue of being human, everyone is entitled to certain fundamental rights. These are known as "human rights" and they are not a privilege, but rather a fundamental right. These rights exist to protect you from people who may wish to harm you. People who are not educated about their rights may face abuses such as discrimination, injustice, oppression, or slavery. Human rights are rights that are inherent in all humans, regardless of gender, race, nationality, language, religion, or other status. Human rights include, among other things, the right to life and liberty, the freedom from slavery and torture, the freedom of thought and expression, the right to work and education, and many others. India is the second most populous country in the world, trailing only China in terms of population. These two nations are home to more than 36% of the world's population.

To realize the purpose of international rules of human rights, it is therefore vital to preserve human rights in these nations. China is a communist nation with a single party political system. India, on the other hand, is one of the biggest democracies in the world and adheres to a multi-party system, in contrast to China [1]. The state of human rights is not good in either nation. Amnesty international recently released a report on human rights that examines how COVID-19 affects human rights. This paper claims that the global pandemic has harmed human rights. Many people die as a result of lack of access to basic needs including food, housing, and health care in the majority of developing nations. The state of human rights can be evaluated according to a set of criteria. Health status, freedom of speech and expression, minority rights, crime prevention, and educational standards are some of these criteria.

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For the majority of the countries, COVID-19 preventative and mitigation attempts were abrupt and difficult because to the prolonged lock down that hampered socioeconomic operations. Marginalized persons and groups are especially susceptible to the negative consequences of the epidemic, including as abuses and violations of human rights that can cause psychological anguish. In this assessment, we emphasize the mental pain and disturbances that the pandemic limits and abuses of human rights that have caused not only in India but also in China. We emphasize how the pandemic prevention and mitigation measures put in place to fight the disease directly affect fundamental human rights of people [2].

## LITERATURE REVIEW

### Theoretical framework

At the end of 2019, Wuhan, China, saw an outbreak of atypical pneumonia (Coronavirus disease 2019, COVID-19), which was brought on by the 2019-nCoV new Coronavirus. China and the rest of the world were both quickly infected by the virus. 4,639 fatalities and 83,976 confirmed cases had been reported in China as of May 9. The province of Hubei, particularly Wuhan, has seen the bulk of cases in China. To stop the disease's spread, the Wuhan municipal government declared a citywide lockdown on January 23, 2020. Other cities in Hubei province soon followed suit. The shutdown successfully stopped the spread of the virus from Hubei to China's other regions. The outbreak has been successfully contained within China, and the focus has been on locating the patients that were brought in from abroad. On the other hand, COVID-19 was classified as a global pandemic by the WHO on March 11 due to its severity and global spread, with 2,361,998 confirmed illnesses and 272,094 deaths outside of China as of May 9. The World Health Organization (WHO) proclaimed a public health emergency of worldwide concern on March 11, 2020, in response to the global pandemic of the novel Coronavirus disease (SARS-CoV-2). Countries have implemented urgent emergency health measures to combat the virus's spread. Stay at home orders and school closures are among the measures that have caused individuals to restructure their lives and demanded modifications in livelihood and health services. Governmental authorities must strike a difficult balance when responding to public health emergencies between preserving the general population's health and defending their inalienable human rights, such as their right to an education, their freedom of movement, and their access to health care [3]. If human rights are not upheld, measures to stop the spread of contagious illnesses may reduce fatalities while simultaneously increasing suffering. As a result, many people, especially disadvantaged populations, may be deprived of their inalienable human rights while still being safeguarded from obvious public health concerns. We support the use of research to advance goals that benefit all people, but it is crucial to take into account all evidence sources, outside of the field of infectious illnesses, in the context of acknowledged trade off, such as between lock down and freedom of expression. Many of the states' attempts to combat the virus's spread have had and will continue to have a restrictive impact on people's

fundamental human rights, and competent authorities should take care that such violations do not result in violence, injury, or death [4].

Some of the fundamental human rights are enshrined in the universal declaration of human rights, which was adopted by the United Nations general assembly in 1948 (UN). Subsequent international legal instruments have broadened human rights legislation even further. Article 12 of the international covenant on economic, social, and cultural rights, for example, states that "states parties to the present covenant respect everyone's right to the best achievable quality of physical and mental health." To strike a balance between public health concerns and human rights protections, international law states that public health might be used to limit certain rights. Governmental public health measures must protect and advance the health of the entire population while also safeguarding basic human rights and social values. However, we must keep an eye on whether limits on our liberties, including physical gatherings, are always justified. We must ensure that state of emergency measures are not used to violate fundamental human rights, that unpopular policies are not implemented without consultation, and that they do not remain in place long after the pandemic has ended [5].

**Public health protection:** The Siracusa principles, a non-binding statement adopted by the UN economic and social council in 1985, lay out the legal requirements for determining whether limitations on human rights are justified. The document includes a list of safeguards that must be in place to ensure that, when prioritising the protection of general public health, states specifically ensure that these restrictions are: Provided for and carried out in accordance with the law, directed toward a legitimate objective of general interest, strictly necessary in a democratic society to achieve the objective, and the least intrusive and restrictive available to achieve the objective instances of public emergency: Derogation. In the case of a "public emergency which threatens the existence of the nation," government's signatories to the International Covenant on Civil and Political Rights (ICCPR) are allowed to temporarily deviate from some of their responsibilities to human rights treaties. A nation that enacts this policy must formally declare that it is unable to protect the rights of the broad population. The necessity to deviate from international human rights norms must be justified and explained. International law mandates that states publicly declare states of emergency to their own citizens and notify the UN of any deviations by using their own domestic channels. Only the following circumstances—extreme circumstances, reasonable measures, non-inconsistency with other responsibilities under international law, and non-discrimination allow for derogations.

**Human rights violations in India during COVID-19 pandemic:** Prime minister Narendra Modi implemented a nationwide lock down in India on March 24, 2020, declaring a state of emergency that would last for an initial period of 21 days and limiting the 1.3 billion people's freedom of movement. This lasted for four phases. The executive power of the states must be exercised without "impeding or prejudicing" the executive power of the centre, according to articles 256 and 257 of the constitution, upon which the central government relied. These

articles allowed the central government to issue directives regarding the implementation of laws made by parliament. With this legal support, it turned to the disaster management act of 2005 and the epidemic diseases act of 1897. Much like the rest of the world, the COVID-19 pandemic for a considerable amount of time brought all of India to a pause. While the Indian government has announced a progressive opening of the nation beginning on 1 June 2020, this unprecedented public health catastrophe has already had an impact on every facet of life known to governments, communities, and people [6].

A complete national lock down and curfews in various regions of the nation were implemented in an effort to stop the spread of the disease and lessen the immediate health concern. The epidemic made universal public health care more crucial by posing a major threat to the rights to life and health of the general populace. The way these "emergency" measures were implemented, however, had a disproportionately negative impact on people's fundamental human rights and the rights of communities, leaving the vast majority of people unsure and unprepared to live under these emergency measures for a protracted period of time. Their effects on human rights, particularly those of vulnerable and marginalized people, have been severe and wide ranging. There were also instances of the state responding and acting in a "excessive" manner or "targeting" particular people, such as human rights advocates, members of racial and religious minorities, journalists, protesters, and dissidents, in addition to the rights violations related to the emergency measures.

## DISCUSSION

The influence of the proportionality on the majority of people, especially the most defenseless groups in society, must be considered. The restrictions were crucial in slowing the pandemic spread, but it's important to consider whether they were responsive to the assessed risks, especially given that they restricted fundamental human rights. Alarming reports of police brutality and mistreatment while imposing the state wide lock down have surfaced in India. 28 March 2020, "police under fire for using violence to enforce Coronavirus lockdown." In numerous states, police employed excessive force against accused "violators" and punished them with physical punishment and stress positions such prolonged squatting, sit-ups, and the murga (rooster) position. In the first five weeks of the nationwide lockdown, a CHRI research revealed that police beatings for purported violations of limitations led to the deaths of at least 12 persons across the nation, three of whom committed suicide as a result of supposed public humiliation. Additionally, there has been no effort made to establish police accountability. Immediately following the lock down announcement, millions of migrant workers and their children were left without a place to dwell, a means of support, or even the most basic amenities. To get to their communities, many of them started to travel across state lines. The migrant laborers have been left trapped on the streets without access to food and other necessities due to the abrupt closure of interstate borders and railways and roads. The huge departure is the largest migratory catastrophe India has experienced since the country's 1947 division [7].

In Uttar Pradesh, Uttarakhand, Bihar, Haryana, Punjab, Rajasthan, and Madhya Pradesh, thousands of men, women, and children reportedly trekked great miles in extreme suffering in an effort to reach their homes, according to television and print media. Many of them died from the exhausting distances they had to travel, while others were killed by moving automobiles, and many more were detained for breaking the lockdown. Another incident involved spraying bleach and other chemicals on migrant laborers as they crossed state lines in an effort to "disinfect" them, which outraged the nation. The pandemic has compelled the country to preserve physical distance, but it has also promoted communal exclusion, xenophobia, and stigmatization of specific ethnicities. This was notably evident during the big meeting of the Islamic missionary organization Tablighi Jamaat in the New Delhi neighborhood of Nizamuddin, where over 3500 people from India and beyond congregated. This congregation's epidemic was regarded as a Coronavirus "super spreader," with religious tensions, xenophobic outbursts, and hate speeches rife on social media, including by government officials. As a result, the Muslim population has been further stigmatized in the country's already xenophobic political narrative [8].

Cases of prejudice against the larger Muslim minority have been documented from various Indian states, since disinformation spreads quickly. Since the Coronavirus outbreak, residents in the North-Eastern states have faced increased prejudice and discrimination in the rest of the country, including verbal abuse and physical attack because of their resemblance to the Chinese phenotype. Only between 7 February and 25 March 2020, around 22 incidences of racial discrimination or hate crimes were registered against them, and they continue in some forms. North-East Indians were also forcibly quarantined, barred from entering apartment complexes, evicted or threatened with eviction, and made to leave. Along with the negative effects of the restrictive measures on rights, it appears that the government has begun a new round of detaining and arresting protesters, student activists, and human rights defenders. The lock down is likely to be abused to further stifle and crush any dissent; activists who are arrested and detained when the legal system is malfunctioning result in them spending an indeterminate amount of time behind bars.

Safoora Zargar, a student activist who protested the Citizenship Amendment Act (CAA) and was detained by the special cell of the Delhi police in instances related to the violence in North East Delhi during February 2020, is one of the cases that stand out. The Unlawful activities (prevention) act has also been used to jail academics and campaigners Dr. Anand Teltumbde and Gautam Navlakha, both of whom are elderly in connection with the 2018 Bhima Koregaon violence. In connection with their reporting on the COVID-19 crisis and as many as 22 first information reports being filed, 55 journalists have been detained, lodged in jail, and threatened. Schools remained closed in most of the country from March onwards, affecting over 280 million pupils and threatening to undo progress gained in access to education for the poor, particularly those who attended government schools. During the lock down, most state government schools did not provide education, putting students from underprivileged communities like Dalits, Tribals, and

Muslims at a higher risk of dropping out and being forced into child labour or early marriage. Girls were especially vulnerable. While many private institutions offered online classes, just 24 percent of Indian households had internet access due to a substantial urban-rural and gender disparity, expanding the learning gap across rich, middle, and low income families, according to the report. Millions of children in India, especially those from Dalit and Tribal communities, were also at risk of malnutrition and illness during the pandemic because the government did not adequately ensure the delivery of meals, medical care, and immunizations that many marginalised children depend on from the public schools and anganwadi centres, which were shut down to stop the spread of COVID-19. Human rights violations in China during COVID-19 Pandemic.

As it struggled to contain the deadly Coronavirus outbreak that was initially discovered in Wuhan province in 2020, the authoritarianism of the Chinese government was on full display. Authorities first hid information about the virus before imposing strict quarantine restrictions on Wuhan and other regions of China. In addition to surveillance and harassment of the families of those who died from the illness, the government has resisted calls from throughout the world for independent, unrestricted inquiries of how Chinese authorities handled the outbreak. In 2020, governments, civil society organizations, and UN representatives all expressed increased alarm with the Chinese government's breaches of human rights. A historic group of 50 UN special procedure mandate holders released a joint statement on China in June, urging "renewed attention on the human rights situation in the country" as a matter of urgency. They also called for the establishment of an international mechanism to address rights violations in China. Authorities failed to provide proper access to food, medicine, and other requirements in areas under lockdown, particularly in Wuhan in early 2020 and Xinjiang in August. Authorities in Xinjiang shackled people who disobeyed lockdown regulations to metal posts, forced some inhabitants to consume traditional Chinese medicine, and secured their apartment doors with iron bars [9].

For their objective reporting on the outbreak in Wuhan, authorities jailed lawyer and citizen journalist Chen Qiu-shi, businessman Fang Bin, activist Zhang Zhan, and others. Chen Mei and Cai Wei were imprisoned by Beijing police in April for compiling prohibited news reports, interviews, and first-person experiences of the outbreak. Several participants at a gathering in Xiamen, Fujian province, where attendees discussed human rights and China's political destiny, were detained by authorities around the country in December 2019. While others were later released, human rights lawyer Ding Jiayi was detained on suspicion of "inciting subversion." A Sichuan court sentenced Wang Yi, a Christian pastor, to nine years in prison in the same month for "inciting subversion." Authorities in Guangzhou forced Africans to be tested for the Coronavirus in April and ordered them to self-isolate or quarantine in designated hotels. African inhabitants were evicted, causing many to sleep on the streets, and hotels, businesses, and restaurants refused to service African customers. According to UN estimates, school closures impacted more than 241 million pupils from pre-kindergarten to secondary education. Students' lack of access to affordable internet and

capable gadgets reflected pre-existing inequities in schooling.

Authorities detained and prosecuted a number of netizens for critical online remarks and private chat messages about the government, accusing them of "spreading rumours," "picking quarrels," and "insulting the country's leaders." The government continued to press down on Chinese twitter users, despite the fact that Twitter is already outlawed in China. In January, it was discovered that a mainland student at the university of Minnesota was sentenced to six months in prison in November 2019 for tweets disparaging of president Xi that he wrote while in the United States. Authorities have strengthened their internet censorship system in order to prohibit anything that does not adhere to "fundamental communist values." The cyberspace administration enacted new regulations in March to promote "online news eco-system governance." To challenge COVID-19, Chinese tech titans created the Health code app. The software creates one of three hues (green, yellow, or red) based on a variety of parameters such as whether people have visited virus-infected locations. That colour has a wide-ranging impact on people's lives, including their freedom of mobility, because municipal governments around the country demand people to show their app when moving around. Apps, devices, and tools developed by Chinese tech firms raise the prospect of Chinese government intervention and monitoring, prompting some foreign countries to adopt extensive limitations that raise human rights concerns. In June, the Indian government banned TikTok, WeChat, and other Chinese apps. In 2020, more states publicly voiced their disapproval of China's human rights abuses, particularly in Hong Kong and Xinjiang, albeit few actually took any action. The US congress passed a number of new laws on a variety of human rights issues, and the US government levied certain targeted sanctions on Chinese officials, organizations, and businesses involved in violations in those two regions. The UK took the lead in drafting a unified statement on China's human rights abuses at the human rights council in June and moved to provide refuge to Hong Kong residents with ties to the UK.

In reaction to the national security act, Australia, Canada, New Zealand, the UK, and the US acted fast to suspend extradition arrangements with Hong Kong and some to facilitate access for Hong Kong citizens to their countries. Similar to this, more than 400 civil society organizations urged the creation of an international framework to track China's human rights situation.

### Comparative analysis

India has been ranked 142 out of 180 nations in the world press freedom index for 2021, whereas China has attained 177 ranking. These study foundations include the freedom of 14 public media, pluralism, the media environment, self-censorship, and news transparency. In this index, China is the third-to-last nation with respect to freedom of speech and expression. Restriction on freedom of speech, expression and movement could be seen in both the countries. India being a democratic country did as much violation to human rights as done by communist China. Lock down had equal effect in both

the countries, *i.e.*, police brutality, torture, inhumane and degrading treatment of citizens, arbitrary arrests and detentions, property seizures and forfeitures, sexual assaults, bribery, denial of social distance to prisoners, news censorship and suppression of freedom of expression, and denial of social distance rights to prisoners are among the other grave human rights violations that have been widely reported during this time. Other abuses include the arbitrary use of quarantines and the arbitrary use of force by law enforcement against civilians. Capturing of media personnels, human rights activists, lawyers, student activists and many others could be seen in both China and India. The government of both the countries failed to provide healthcare and food to a large section of it's population during crisis.

The Chinese constitution does, however, recognise the right to free speech. But the freedom of speech and expression is severely restricted in China under the communist party's rule. China has received criticism from the international world for many years. Media outlets are forced by China's censorship and limitations on free speech and expression not to leak material outside of the country, which prevents all reports of human rights violations from reaching the outside world. The COVID-19 epidemic has contributed to international turmoil and disorder. When the outbreak first appeared in Wuhan, the 9.7 million-person city was cut off from the rest of China. Thousands of people were 'suspected' of being COVID-19 positive and were quarantined as a result. This was particularly concerning constraints on freedom of movement as a result of the lockdown. However, after 320,000 nasal swab tests, only 0.47% of the samples tested positive for COVID-19. Despite the fact that China's cooperation and comprehensive strategy protected hundreds from COVID-19 infection, some of these harsh actions inevitably violated basic human rights. A notable incident of potential human rights violations occurred in December 2019 when the Chinese government took severe action to "suppress and punish whistle-blowers" who were attempting to alert the public about a "SARS-like virus."

When Wuhan ophthalmologist Dr. Li Wenliang attempted to warn the public about the potential spread of a group of new fatal viruses, he was severely reprimanded by the Wuhan police. Since reliable information may potentially inform and educate the public accurately and in advance, as opposed to hiding the seriousness of the illness, which ultimately confused people and resulted in fatalities, such dramatic censoring needs to be questioned. The Chinese government has supported its economy, particularly SMEs, through a number of initiatives, despite critiques for the severe restrictions on travel within and outside of China. A decrease in the required reserve ratio for banks was announced by the Chinese central bank, freeing up 550 billion Yuan (70.6 billion euros). This can be the effect of a government that prioritises economic growth over human rights. Although the Indian government's response to the COVID-19 outbreak was clearly quick, the scope of its implementation also appears to show a lack of preparation and coordination. India was unable to reap many benefits from the early closure, and a few months later it was added to the list of nations most severely impacted by the Coronavirus epidemic. The first case of Coronavirus infection in India was reported on January 30, 2020.

The time from January to mid-March was enough to mentally prepare the general public for the impending lock down. Government officials kept assuring the public that COVID-19 infection had not taken the form of an epidemic. Indian Railways rescinded all its trains originating between midnight of March 21-22, 2020 without any prior notice. At 8 p.m. on March 24, 2020, the Prime minister Mr. Narendra Modi promulgated a three-week stringent nationwide lock down efficacious from March 25, 2020. Michelle Bachelet, the UN human rights commissioner, also expressed her deep sorrow over the situation facing the impacted migrant workers. The increased number of human rights infringement cases submitted with India's National Human Rights Commission (NHRC) may serve as additional evidence of the widespread violation of migrant labourers' human rights during lockdown. The COVID-19 epidemic highlighted serious flaws in the pandemic policy of the government of India and there is an urgent need to address those flaws. The migrants who already face language, cultural, licit, regulatory, and practical barriers further got more alienated after the invocation of sudden lockdown by Indian government under the disaster management act 2005.

They were like a helpless community, which the states and corporations utilized for their economic advancement when required, but forsook them as anon as disaster struck. The Chinese have demonstrated through their foresight that freedom may be obtained over the long term by making a temporary sacrifice. According to reports, China has progressed from serving as the pandemic's epi centre to now having a small percentage of all cases worldwide. But this was not the case in India. India not only violated human rights of it's people but also the economy was severely damaged. Even though, both the countries equally violated human rights, China managed to keep it's growth rate in positive while India suffered a negative growth rate. India's economy dipped by 23 percent but China attained a positive growth of 2.3 percent. In general, careful thought must be given. Do exceptional circumstances call for unprecedented response? When adopting and executing emergency measures, proportionality is crucial.

## CONCLUSION

We advise both the countries to concentrate reducing mortality as well as defending human rights. Human rights are vital to all people, regardless of their race, sex, gender, nationality, ethnicity, language, religion, or any other status, according to the United Nations (UN). These rights, which also include the freedom from slavery and torture, the right to employment and an education, the right to life and liberty, and numerous others, such as the right to a clean and safe environment, have become crucial to protect. These rights belong to everyone, without exception or threat of any kind. States have had to impose restrictions on freedom of expression in order to counteract the spread of false information, and governments have a duty to protect the rights of the general public. However, in doing so, governments must also deliver the data required for the defence and advancement of rights, particularly the right to health. For persons with limited or no literacy, all material regarding COVID-19 should be offered in many languages and be easily

accessible. To further raise awareness of the importance of maintaining one's health, this information should be broadcast on national radio stations throughout, and volunteers who have undergone specialised training in COVID-19 prevention and bystander intervention techniques should be dispersed to rural areas. Internet access that can be relied on and is unrestricted. Governments must make sure that any limits on the freedom of movement are legitimate, necessary, and reasonable. We should refrain from imposing any excessively broad restrictions on our freedom of movement and our right to privacy, and we should only implement mandatory restrictions when they are both justified by science and necessary, as well as when it is possible to set up support systems for those who will be impacted. Coercive tactics are less likely to promote cooperation and preserve public trust than voluntary self-isolation strategies. Governments are required to make sure people have access to food, drink, medical treatment, and care giving assistance when quarantines or lock downs are implemented. Governments must make sure that public health situations aren't a cover for violating people's rights. Crisis situations must never be an excuse for restricting rights in general or the freedom of peaceful assembly and association in particular. The situation does not warrant using excessive force to disperse curfew violators or disproportionate punishment in other circumstances. When the public health emergency brought on by COVID-19 ends, it is crucial that any restrictions placed be lifted and that full enjoyment of the rights to freedom of peaceful assembly and association be restored by both the countries. To ensure that any declarations of emergencies or laws created in response to the current crisis are automatically repealed once the public health emergency is over, states should include sunset clauses in them. Furthermore, it is crucial to improve judicial and parliamentary checks and balances in order to prevent the executive branch from assuming too broad powers and to make sure that there is

a check on the arbitrary use of executive authority. These measurements were neither taken by China nor by India, rather got both countries involved in military conflicts with each other. Their ability to resist COVID-19 at home and in the Indian Ocean Region (IOR) was dependent on their 19 bilateral equations, which had seen irritants and even several violent clashes during the epidemic. The epidemic has not only had ramifications for their success or failure at home and internationally, but it has also served as a test case for their joint, decades-long trust-building efforts and the subtle synergies that have resulted.

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