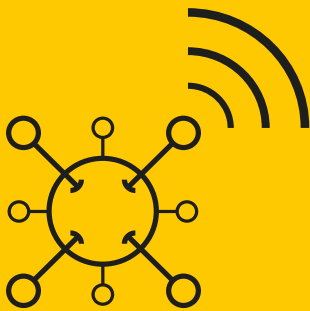


# DAWN TALKS ON COVID-19

*Development Alternatives  
with Women for a New Era*



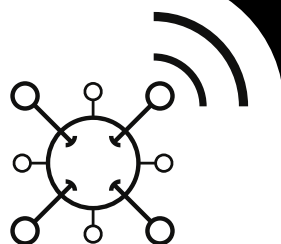
**The Exception Cannot  
Be Made the Norm**

**KUMI SAMUEL**

The right to health and its enforcement is a fundamental entitlement, enshrined in the Universal Declaration of Human Rights (UDHR) and various International Treaties and Declarations. The right to health is an inclusive right dependent on a range of underlying determinants from safe drinking water to food, nutrition, housing and includes the creation of healthy working conditions and environments, information and participation and the freedom to control one's health and body. The right to health also calls for a system of health protection which provides equality of opportunity for everyone to enjoy the highest attainable standard of health. Therefore, the State has the obligation to provide health services, goods and facilities to all without discrimination.

The strongest protection of the right to health and its enforcement as a fundamental entitlement is through its inclusion in a country's Bill of Rights. In many countries, however, it is relegated to directive principles of state and limited to progressive realization within the bounds of available resources. Nevertheless, in some countries, despite the absence of Constitutional guarantees, national

**“ the State has the obligation to provide health services, goods and facilities to all without discrimination. ”**

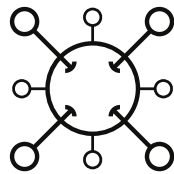


laws and progressive health policies have assured some of the rights guarantees. Many newly framed Constitutions have some form of health rights protections.

However, the overall guarantee of public health is generally poor globally (with some exceptions) and is unequal between and within States as the COVID-19 pandemic well illustrates. Fundamental to this are the deep-seated structural and systemic inequalities created by neoliberal economic arrangements that the pandemic has surfaced, and which are now manifesting in socio-economic and political crises across the globe. While the virus can affect anyone indiscriminately, it does not affect everyone equally, debunking the myth that it is a universal equaliser. For instance: social distancing and self-isolation is an unattainable privilege for those living and working in crowded environs; handwashing is an impossibility for those with poor or no access to clean water. Universal lockdowns have forced migrant workers onto the streets and deprived billions of their incomes and livelihoods. Prisoners, those in detention centres and internally displaced people are at heightened risk of infections, and the worst affected are the elderly in institutional care. Women, children and LGBTQI persons at risk of violence have been forced into domestic confinement with their abusers, and women have been compelled to take on a disproportionate burden of unpaid care work.

Ultimately, inadequate health care systems, lack of social protection and State responses have failed the poor and the vulnerable almost everywhere. The pandemic has pushed States to resort to extraordinary measures in order to battle its global impact. Even when these measures have been instituted through legislation, orders and regulation, they have raised serious concerns. From a human rights perspective, the critical standard has to be that such measures must be legal, necessary, proportionate and non-discriminatory. They must also

**“ The pandemic demands the imperative of fulfilling the right to health and health care for everyone. ”**



have a specific focus and respond to immediate threats while protecting human rights and the rule of law and must be time bound.

However, some decisions have been made unilaterally at the executive level putting scrutiny beyond judicial review. In some instances, Parliaments have been overlooked or prorogued, leaving little room for necessary checks and balances. In still others, disproportionate responses have resulted in humanitarian crises exacerbating the impact of the pandemic and violating a range of fundamental rights. In many instances, these extraordinary measures are taken against existing backdrops of populist authoritarianism, ethno-nationalism, militarization, ongoing conflict and a suspension of human rights. The pandemic appears to be giving Under the guise of the pandemic authoritarian regimes have arrogated to themselves repressive powers, allowing for the dismantling of democratic institutions and the suspension of freedoms including those of association, expression and dissent.

A particularly insidious approach has been invoking the discourse of war to deal with the pandemic, inciting fear and an unquestioning dependence on the State for the provision of safety and security without a heed to due process, rule of law and democratic governance. In addition, the use of technology for purposes of surveillance which has already been a major concern for digital justice is now leveraged in the name of public health security. Many States, if not all, now infringe on the right to privacy through such surveillance, with very real possibilities of this becoming the new normal after the pandemic.

The pandemic demands the imperative of fulfilling the right to health and health care for everyone. The right to health must also be addressed as an inclusive right which is indivisible from and dependent on a range of socio-economic and political rights, including privacy and personal freedoms.

The challenge to human rights is to ensure that the extraordinary measures resorted to by almost all States globally be tested on the doctrines of necessity, reasonableness and proportionality and will not be normalised post the pandemic.



## **KUMI SAMUEL**

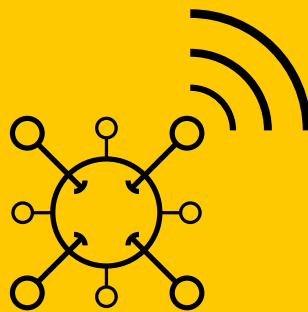
is a feminist activist and researcher from Sri Lanka. She heads DAWN's Political Restructuring & Social Transformation analysis team. Kumi is a co-founder of the **Women & Media Collective**.

She was associated with the campaign to realise ***CEDAW General Recommendation 30 on Women in Conflict Prevention*** and has engaged in the review process to ***CEDAW, ICCPR, ICESCR***, and the ***Universal Periodic Review***.

She is a member of several working groups, including the ***UN Women's Civil Society Advisory Group*** for Bhutan, the Maldives, India, and Sri Lanka. Kumi's work focuses on women's rights, conflict transformation, gender, sexuality, and movement building.

She has published extensively on these themes, her most recent book is ***Political Economy of Conflict and Violence against Women (DAWN, 2019)***.





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