

## LEGAL ASPECT OF COVID-19 IN INDIA

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### ABSTRACT

*The present article focuses on the legal aspect of COVID-19 in a nutshell. India has confronted a number of epidemics and pandemics in the past. While an epidemic is an event or an outbreak that has affected several people at one time and is likely to spread through a single or several community whereas "a pandemic is a worldwide spread of a new disease." The article brings in all related issue dealing with pandemic. The proportion of newly emerging diseases have taken a massive increase in the past and is likely to be increased in the future. As a developing nation India suffers overly from such infectious diseases.*

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**Keywords:** COVID-19, Legal Aspect, Pandemic, Emerging Diseases, Infectious Diseases.

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### Introduction

A pandemic seems to be an inconsequential storm in a teacup. Since 1990, India has suffered a number of pandemics. These pandemics have taken over lives of millions of people. Long ago, when India was lacking in several aspects, sophisticated health infrastructure was one among all. As health infrastructure was not well furnished it was a difficult task to manage the scenario. But with advancement in all fields, medical facilities also got improved. Even though we have made progress in these advancements we still somewhere have insufficient health officials and inadequate hospitals and primary healthcare system. At the time of pandemic the whole burden lies on the healthcare system which at last fails to help people fight against such outbreak. India's population of around 1.3 billion is also a major drawback as the ratio of people and number of doctors is quite disproportionate due to which such outbreaks are very difficult to handle. The outbreak of such infectious disease in such a densely populated country like India finds it a very long way to completely eradicate such situations. Not only has the poor health infrastructure been to be blamed but also people who lack etiquette. For example, the people do not abide by the rules given by government. They are only inclined towards personal benefits rather than protection of several people. When such pandemic knocks India the middle class and the poor will be the most affected and the survival probability amongst poor annihilates.

### Corona Virus Outbreak 2020

Corona Virus came into light on 31<sup>st</sup> December when China reported the issue to WHO. People were found with pneumonia of unknown cause in Wuhan city of China. The virus soon started spreading to other parts of China. China being the first country to be the epicenter of this virus within no time the pandemic's epicenter shifted to Europe from China. Italy and Spain were the victims of this deadly virus.

When corona Virus was announced a pandemic, and the symptoms and prevention were known to Indian doctors, the government decided to break the chain of infection by imposing a strategy of lock-down and then raise up the damaged healthcare. These measures taken were to restrict the spread of virus as much as possible. The equipment employed in the hospital were too low in number to manage the ongoing crisis. Since in such short span hospital could not be erected in short run so the schools, trains, medical colleges were converted into hospitals with all necessary equipment. This was an laudable step by the Indian government.

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With such serious threat to life, India is facing a unusual economic crisis and has deteriorated the financial system. The middle class businessman is going through tremendous uncertainties. Over past few week there has been a collapse in the economic activities. The manufacturing and services sectors have been recorded with sharp decline. As these sectors comprise 52% of the total it will ultimately affect the GDP of the nations. The economy due to this is worst recession and one needs to go to the Great Depression in 1930's. Even though strengthening economy is necessary but at this stage healthcare needs to be given more focus.

#### **Legal Implications of Corona Virus**

India a union of 28 states and 7 union territories with separation of power between centre and state. The state government is empowered constitutionally to legislate on public health and the centre may provide the prevention of such transmission. With such a dense population if India reaches to community spread, the authorities will have to take tough and stiff decisions to prevent the outbreak.

In India, when any person is found with some symptoms of the virus or is diagnosed with virus or has recovered from the virus is asked to quarantine themselves. "Quarantine is a state of isolation in which people are exposed to infectious diseases are placed for a fixed time, to prevent further spread of disease." Since corona Virus is highly contagious so the incoming traveler and those who have had come in contact to the person affected with corona virus are asked to self isolate themselves. Several instances have been noticed where people do not go for screening and depart themselves from quarantine. These irresponsible and negligent acts have jeopardized the safety of public. People are not aware about the existing laws and non-compliance of which will lead to prosecution of the person for the act detrimental to lives of other.

Disobedience of quarantine is punishable under sec 271 of the IPC which is a non-cognizable by which the person is imprisoned for 6 month accompanied with fine. If a person is not taking proper prevention regardless knowing the intensity of such virus is punishable under Section 269 and Section 270 of IPC.

The 123 years old act "Epidemics Diseases Act, 1897" allows the state to inspect people with travelling history. It also allows center to take necessary measures to prevent such transmission. The acts also allows the related authorities to take proper steps in good faith without being questioned. Since public health is a subject matter of state under the seventh schedule the onus of imposing laws solely lies in the hands of the state. The state may issue sec 144 of CrPc to restrict public gathering and impose curfew. Any violation of sec 144 of CrPC is punishable under sec 188 of IPC.

#### **Impact of COVID-19 on Judiciary**

Health and safety stand supreme as COVID-19 is growing each day. This virus has also left impact on the litigation and arbitration in various ways. From late trails to court closure it has left its footprints on judiciary as well. The wheels of judiciary have been brought to a grinding halt. The courts across the country are shut down and only the case of utmost importance is being entertained. In march, the SC ordered to start conducting virtual hearings which was never done in the history. The courts made it clear that public health is much more important than the conventions of court. The court with a view of not spreading the virus and adhering to social distancing took decision in favor of public and in future would bank heavily on the technology. Since access to justice is paramount to the rule of law in democracy. Therefore while abiding to the constitutional commitment and taking into sight the challenges due to outbreak the courts in India have been ardent in making fuller and efficient use of technology in judicial proceedings. Open court hearing would mean gathering of people which is detrimental to the people.

#### **Justice in the Time of Corona**

A major question is whether this initiative by the court will continue. Some advocates are of the view that this kind of trail will increase the speed of justice. The lock-down has given Indian judiciary, a chance to adopt modern technology. These hearings are important and beneficial for the legal system. Once the condition move to normality it would still not be clear that the current virtual proceedings would be applicable or not. Internet, a third proprietary software cannot be used as reliable source.

Few steps should be taken like a platform is to be created that includes the features such as videoconferencing and e-filing on a single platform. This will not only be helpful for judiciary but also the lawyers, police and will provide speedy justice. The courtroom people still lack technical knowledge so this technical knowledge must be made compulsory and be imparted to them. As the law officials who do not know how to navigate a digital native system is likely to affect the trail. Since, Indian courts are not equipped to work in this crisis, so this is a wakeup call to innovate.

### Conclusion

A pandemic is more deadly and noxious than a war. A nation whether it is a super power like USA, China or Spain are still not able to manage the ongoing crisis. These powers too have downfall in their economies. The lock-down, isolation, social distancing are the ways by which we can break the chain but fear of spread remains constant. The wrongdoers at this time need to understand the gravity and intensity of such viruses. The different acts in India do not give a full fledged and clear picture with respect to pandemic. In day to day social life where internet plays a key role, the circulation of fake news which is misleading the audiences should also be stopped. Since we do not have all sectors in India with zero loopholes the current laws with multiple statues have resulted caused confusion and left the people jumbled. The present situation calls for a well-equipped health infrastructure and a new sturdy epidemics law . The old law has been called a blunt one . It also requires proper coordination amongst center and the state. More and more focus has to be laid on health facilities followed by legal amendments. This time being an extraordinary situation requires extraordinary measures. In emergency laws need not be made silent. The reasonableness of the government is to be judged by people after observing transparency and accountability that are kept perfectly in its place by the government.

### References

- World Health Organisation, *Disease outbreaks*, <https://www.who.int/csr/disease>.
- Vageshwari Deswal, *Covid-19: Laws related to quarantine in India* , Times Of India, March 26, 2020, <https://www.google.com/amp/s/timesofindia.indiatimes.com/blogs/legally-speaking/covid-19-law-related-to-quarantine-in-india/>.

