

Legal Aspects of Coronavirus Pandemic

*Umang Dudeja**

Student, IMS Unison University, Dehradun, Uttarakhand, India

Abstract

The Novel Coronavirus, Covid-19 is caused by the extreme acute respiratory syndrome. The World Health Organization has called it a pandemic, which is an ongoing global health issue. Globally, Quarantine and travel bans were enforced. India has also subjected people to quarantine or self-quarantine which is legally enforceable. It is in this sense that the outbreak is mitigated and regulated. The COVID-19 outbreak in India is therefore of utmost importance not only for India but also for the world. Quarantine is believed to be the oldest method for reducing the rapid spread of bacterial infections and viral attacks. All jurisdictions around the world have legally licensed it for the protection of public health and the prevention of disease transmission. This paper focuses on human rights and laws in respect to the Quarantine and various methods through which this pandemic disease can be controlled by keeping in mind the legal rights.

Keywords: COVID-19, Human Rights, Law for Quarantine, Impact of Coronavirus, Government Rights, viral attacks, infections, disease, public health, legal rights.

***Author for Correspondence** E-mail: umang.ud.dudeja@gmail.com

INTRODUCTION

With the spread of a deadly and communicable disease-both of which are coronavirus-human freedoms can be temporarily sacrificed to protect the broader population. Most of the country is currently subject to "in-place shelter" [1] orders, urging people to stay home and close businesses that are considered non-essential. In the field of public health, "quarantine" means the isolation of individuals (or communities) who was exposed to the epidemic of infection. "Isolation," on the other hand, refers to people who are considered to be contaminated being separated. However, in U.S. law "quarantine" also applies to all forms of precautions and travel restrictions. Isolation can be voluntary or enforced by law and quarantine can.

Isolation and quarantine orders historically have come from states within the world. Usually, courts upheld these directives in deference to the specific powers of States to protect public health. However, courts interfered sometimes when quarantine was arbitrary or officials failed to follow the appropriate procedures. As in **Jew Ho v. Williamson** [2], a federal court stripped a

quarantine levied by San Francisco in reaction to a bubonic plague outbreak because it was politically motivated and unfit to avoid the outbreak.

While isolation and quarantine orders have become less obvious in recent decades, several states have isolated patients suffering with tuberculosis who have not followed the drug regimens. In March 2019, Rockland County, New York, banned all minors who were not fully vaccinated with measles from entering any public place of assembly. In **W.D. v. County of Rockland** [3], a New York State judge struck down that order, ruling that there was no emergency. However, most states do not need an emergency declaration to impose quarantine.

COMMON LAW FOR QUARANTINE

India has introduced common law solutions to impose quarantine, which have proven successful in times of epidemics and pandemics. One of the earliest examples is found in the judgement of United States Supreme Court case **Gibbons v. Ogden** [4], where the State's powers to pass quarantine legislation and enforce health controls are

justified in cases of health emergencies, infectious diseases and viral infections. The Indian Penal Code (IPC) addresses public distress and the other applies to the quarantine law. The IPC law is further complemented by the Epidemic Diseases Act to monitor the spread of these epidemics

The current situation in India under COVID-19 is the product of Sections 6(2)(1) and 10(2)(1) of the Disaster Management Act for the control of quarantine law and health protection. It is hard to contest the quarantine law and its compliance on the part of both people and the state. Courts have always tilted to the power of the state to enforce it. In the field of public health, "quarantine" means the isolation of individuals (or communities) who have been exposed to an infectious disease [5].

The provision under Section 268 of the IPC provides for a person to be guilty of a public nuisance while performing an act that causes any common injury, disturbance, danger or public annoyance. Penalty for public distress under Section 290 is of ₹ 200 (INR). It is important to remember that when the IPC was introduced one-hundred-sixty years ago, 200 (INR) was exorbitant. Notwithstanding the injunction the persistence of public nuisance is a case of ongoing and continuous nuisance. Under IPC Section 291, this kind of nuisance is punishable by imprisonment of six months, a fine or both.

Impact of Covid-19 on Society

Since the COVID-19 outbreak, we've seen the coronavirus' major economic effect on financial markets and vulnerable sectors such as manufacturing, tourism, hospitality and travel. This, in effect, impacts many individuals, usually the least well-paid and others who are self-employed or working in informal settings in the freelance economy or in part-time contract jobs.

In addition, the human cost of the pandemic lies, ranging from the deaths of friends and family to the physical effects of sickness to the mental distress and fear that almost everyone experiences. Not understanding how this pandemic will affect our economic, physical

and mental well-being in an increasingly nervous, depressed and lonely world for many. Fear of the unknown can also lead to panic, for example when people feel like they are lacking life-saving security or care or run out of resources that can lead to panic buying.

Even after all this, criminals and hackers are still exploiting this situation, and more than 16,000 new coronavirus-related domains have been registered since January 2020 on the Coronavirus-themed malicious websites. Hackers are selling malware and hacking tools through COVID-19 discount codes on the darkweb [6] for example, zoom accounts are being sold on darkweb.

It has an effect not only on citizens but also on companies in India. With the rise in unemployment, interest rates, and fiscal deficit, the economy in India has seen better days. The novel Coronavirus adds fuel to this fire, which sends tremors to India's trade markets dependent on China for imports. According to a report by CMIE, it is indicated that there is a rise in the rate of unemployment which has now risen to 23.4% [7].

OYO was a leading brand in the hospitality industry, and the effect of the crisis on sales is significant — around 50-60% of sales is now dropping [8] because of fall in the hospitality sector following the COVID-19 pandemic.

Response to COVID-19

India is a federation of twenty-eight states and seven territories with a constitutional division of legislative roles for legislating on public health issues between the central government and the constitutionally approved states.. The union law deals with port quarantine, as well as in reference to seamen's and marine hospitals, and interstate quarantine and also the State legislatures could give for matters regarding public health and sanitation, hospitals, dispensaries, and hindrance of animal diseases.

The Indian Constitution has no provision for emergencies relating to the environment or public health. And indeed, previous bitter experience – of politically orchestrated crises.

Therefore, it is not surprising that the central government opted not to go down the Emergency Powers Path to deal with Covid-19. Indian Government has taken various measures in respect to stop the spread of Corona virus in the Indian Society by taking up laws in use and by implementing various other measures which are strict in nature like Lockdown, Quarantine, visa restriction, etc.

The central government on 24 March invoked the National Disaster Management Act [9]. The application of this regulation is controversial, since it was enacted in the aftermath of a natural disaster and was clearly not meant to deal with crises or pandemics in public health.

This is, however, the law that the government wanted to use and called Covid-19 a "disaster" under the scope of the Act. Section 10 of the NDMA authorizes the National Disaster Management Authority to give binding instructions and recommendations for coping with a disaster to several state governments. It therefore centralizes the field of operations in nature and gives the federal government absolute compliance powers, despite the fact that under the Indian Constitution, public health is a topic normally dealt with the level of the state governments [10].

India has been issuing travel advisories from January, with increasingly more stringent travel restrictions as the virus grew more virulent and global and after that on March 11, 2020, the government of India imposed visa and other travel restrictions that are enumerated in a consolidated advisory published by the Ministry of Home Affairs' Bureau of Immigration in order to stop foreign people to enter in the Jurisdiction of India and spread the virus in the Indian Society. As per the new advisory, travel to India for Overseas Citizenship of India (OCI) card holders was also suspended until April 15, 2020 [11].

Consequently, the full extent of the restrictions imposed by India's lockdown is only made clear by weaving through a complex three-level web: the instructions of the central government under the NDMA, the regulations

of several state governments under the EDA, and the orders of local officers under the Criminal Procedure Code.

THE COURT'S STILLNESS

The Courts service was not officially halted – however, the Supreme Court and some of the High Courts had already begun to hold virtual hearings. What constitutes a "highly urgent" matter, however, has been left open to interpretation and, disappointingly, some of the high courts have interpreted it as implying that bail cases are not to be heard during the lockdown pendency. This is essentially a suspension of the right to personal liberty under the Indian Constitution, cannot even be done by the State during an Emergency.

Meanwhile, a number of petitions have been lodged with the Supreme Court regarding violations of rights (especially of migrant labourers)[12] arising from the nationwide lockdown (in some cases, the Supreme Court itself has taken suo motu notice of certain events). Nevertheless, in the one substantive hearing before India's chief justice, the Court's answer was agnostic: it expressed satisfaction with the behavior of the central government, and then proceeded to blame widespread migrant distress on "false news" (without any proof to substantiate the assertion, apart from the Solicitor-General's word). This follows, however, a recent trend in which the Supreme Court appeared to be extremely deferential towards the State and accepted the state's arguments at face value on a number of occasions, rather than subjecting them to rigorous judicial scrutiny.

CONCLUSION

Compared to other nations, the COVID-19 outbreak in India is comparatively new. Proper monitoring and accurate documentation of the characteristics of those infected will take place. When a significant proportion of the world is in lockdown, like India, the economies of the countries are also hit hard. Absent a vaccine immediately available to reduce the spread, a contingency plan must be established between governments and international organizations. India's public health care program is abysmal with a few

exceptions in some states. According to a report by OECD, India spends just 3.6% of its GDP on public health [13], lower than some of its smaller neighbours like Nepal. The best strategy is to be prepared for multiple peaks as India has only one doctor per 1,250 people. Even with the prompt quarantine orders, declaration of national disaster, and nationwide complete lock-down, There is still a growing need for an appropriate legal process and contingency plan to deal with the challenges of COVID-19.

Even beyond Covid-19 – the challenge of civil rights and democracy critics in India seems to be twofold: to concentrate on narrowing the reach of overarching legislation that essentially authorizes rule by order without the legal protections and political obligations of an Emergency Declaration, and on formulating and contributing to a legal culture aimed at restoring effective judicial oversight of executive action allegedly for the benefit of the general public and the courts while continuing to work with restricted ability, to subject the State's action to rigorous judicial review.

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