

Relevance of Epidemic Diseases Act 1897 in Current Pandemic Covid 19

Paper Submission: 12/09/2020, Date of Acceptance: 25/09/2020, Date of Publication: 26/09/2020



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Abstract

The Covid 19 pandemic that started in China's Wuhan city has caused havoc in almost the entire world. The whole world has been caught in the claws of the Corona Virus. It is as if the whole world has stopped and humans are imprisoned in their homes. This virus causes respiratory tract infections in human and officially named as Severe Acute Respiratory Syndrome Corona Virus-2 (SARS-Cov-2). Covid-19 is an infectious disease which had not been previously identified in humans. SARS-Cov-2 causes respiratory illness like Flu and symptoms may be cough, fever and in severe cases pneumonia. India is no longer untouched by this pandemic and this disease has spread its feet in India too. To prevent the spread of Covid-19, after 2 days public curfew, 21 days lockdown was announced by Prime Minister Narendra Modi on 24 March 2020, followed by lockdown extended until 03 May 2020 on 14 April 2020. To overcome the Corona Pandemic the Central Government has announced to extend the lockdown period ending May 3, 2020 to May 17 and extend the lockdown period to two weeks again. The entire country is divided into 733 zones out of which 130 Red zones, 284 Orange zones and 319 Green zones have been declared. Treatment of Covid-19 is not yet available, social distancing and lockdown are the only means of prevention. In the country, on the one hand, this epidemic is slowly taking a gigantic form, on the other hand, there are constant attacks on corona warriors (doctors, policemen etc.)

The purpose of this paper is to analyze the prevailing laws under the Epidemic Diseases Act of the country to deal with the present situation. Epidemic Diseases Act was enacted 123 years ago in 1897 by the British Government with an aim to overcome epidemic called bubonic plague in Bombay. This Act is one of the smallest Act in India with only four sections. The title, terminology and other aspects are explained in the first section. The second section mentions all the special rights that are available to the Central and State Governments in times of epidemic. The third section refers to the punishment and fines provided under section 188 of the Indian Penal Code for violating the provision of the Act. The fourth and last section provides legal protections to the officials implementing the provisions of this Act.

Keywords: Covid- 19, Disaster Management, Epidemic, IPC, Lockdown.

Introduction

Disease Outbreaks

A Disease Outbreaks is the occurrence of disease cases in excess of normal expectancy.

1. Disease outbreak are usually caused by an infection, transmitted through person- to- person contact, animal- to- person contact, or from the environment or other media.

An Outbreak of Epidemic Disease

"An outbreak of disease that spreads quickly and affects many individuals at the same time."

1. Affecting or tending to affect a disproportionately large number of individuals with in a population, community, or region at the same time.

A Pandemic Outbreak of a Disease

"An outbreak of a disease that occurs over a wide geographic area and affects an exceptionally high proportion of the population."

1. Occurring over a wide geographic area and affecting an exceptionally high proportion of the population
2. Pandemic refers to an epidemic that has spread over several countries or continents, usually affecting a large number of people. (Association for professionals in Infection Control and Epidemiology)

Lockdown

A lockdown is an administrative order. The government can implement it officially during a disaster. In this, people are requested to stay in the house and all the services are stopped except the essential services. Its purpose is, all should be safe in their respective homes. When the central and state government believe that a major crisis or epidemic has come in the country or state and the life of all citizens may be threatened by this, then it is applied. Section 2 of the Epidemic Act 1897 gives the state government certain important powers, under which the central and state governments can temporarily make any rules for disease prevention. In present day lockdown in India, essential services like police, fire fighting, medical, paramedical, bus terminal, bus stand, security services, postal services, petrol pump, airport, railway station, telecom and internet services, bank, ATM, water, electricity, Municipal Corporation, media, delivery, groceries and milk etc. services are exempted from lockdown.

Social Distancing

Avoiding contact with one another and staying a certain distance is social distancing. To prevent the infection of the virus, keep a certain distance from each other and be safe in their respective places. By keeping distance, the virus infection will also reduce and it will not spread. Social distancing is a very important step to reduce the speed of corona virus. This is necessary so that the health care system can handle the virus situation. Under this, we have to stay away from collective celebrations. Distance in offices, schools, conferences, sporting events, weddings, etc., so that the chain of transmission can be broken.

Isolation

In this, the infected person is kept in a separate room and stays away from other people. No one goes to that room unless it is very important.

Self- Isolation

Self-isolation means keeping oneself away from infected people. This is a step to prevent covid-19, so that you do not come in contact with people and stay away from infection. Restricting yourself to a certain and safe place is called self isolation.

Quarantine

In medical parlance, the term quarantine is used for suspected corona patients, while the term isolation is being used for patients who are positive.

To protect against the infection of Covid-19 pandemic, Prime Minister Modi declared Lockdown all over the country. In his message given to the nation by prime minister Shri Narendra Modi, "Jan hai to Jahan hai" was emphasized and it was said that Lockdown and Social Distance is very important to save the life of every citizen. It was also said by Prime Minister that most people understood this and performed their responsibility. It would be appropriate to mention here that Lockdown and Social Distancing are neither defined under the Epidemic Diseases Act or other available Laws of the country nor there is clear provision for their compliance.

WHO declared Covid-19 a Pandemic

1. Pneumonia of unknown cause detected in Wuhan, China was first reported to the WHO Country office in China on 31 December 2019.
2. January 30, 2020 WHO declared the outbreak of Covid-19 as a Public Health Emergency of International Concern (PHEIC).
3. March 11, 2020 WHO Director General characterized Covid-19 as a pandemic.

Is Corona Virus A Biological Weapon?

1. Dr. Francis Boyle, Professor of International Law at the University of Illinois College of Law, stated in an interview that the 2019 Wuhan Corona Virus is an offensive Biological Warfare Weapon.
2. A Leading Russian Microbiologist, Professor Petr Chumakov, Chief researcher at the Engelhardt Institute of Molecular Biology in Moscow claimed that Wuhan Lab did absolutely crazy things to manipulate corona virus into infecting humans.

Some Incidents of Inhuman Behaviour during Lockdown Period at a glance

In the hour of this calamity, while false information and rumours are spreading on the one hand, on the other hand, incidents which wire up human values are also happening. Some of the inhuman incidents that happened in the corona period are as follows-

1. On 05 April 2020, Health Workers who were on duty for screening of corona infection were attacked and incident of stone pelting occurred at Khanpura Chisti Nagar Area, Ajmer, Rajasthan.
2. Dr. Sanjibani Panigrahi was threatened for treating Covid-19 patients at Western City of Surat.
3. All India Institute of Medical Sciences appealed to the Government for help after health workers were forced out of their homes by panicked landlords and housing societies.
4. Airline and airport staff called on for evacuations of Indians stuck overseas and to manage key cargo deliveries have also been threatened.
5. A team of cops and doctors trying to escort a corona virus positive patient was attacked at Chamanganj, Kanpur. (ABP Live : updated 29 Apr. 2020)

Epidemic Diseases Act 1897

The Act provides for preventive measures against spread of Dangerous Epidemic Diseases as under-

Section 2
Power to take special measures and prescribe regulations as to dangerous epidemic disease.

1. When at any time the state Government is satisfied that the state or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the state Government, if it thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such

diseases or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

2. In particular and without prejudice to the generality of the foregoing provisions, the State Government may take measures and prescribe regulations for-

The inspections of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such license.

Power of Central Government

When the Central Government is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous Epidemic disease and that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take measures and prescribe regulations for the inspection of any ship or vessel leaving or arriving at any port in the territories to which this Act extends and for such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.

Penalty

Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under sections 188 of the Indian Penal code (45 of 1860).

Section 188, Indian Penal Code

This section read as under –

Disobedience to Order Duly Promulgated by Public Servant

Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; And if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Offence describe under section 188, I.P.C. is cognizable, bailable and not listed under compoundable offences

Section 269 India Panel Code –Negligent act likely to spread infection of disease dangerous to life
Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both .

This is a cognizable, bailable and non-compoundable offence.

Section 270 Indian Panel Code– Malignant act likely to spread infection of disease dangerous to life

Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

This is a cognizable, bailable and non-compoundable offence

Relevant Provisions of the Disaster Management Act, 2005

Important decisions are being taken by governments to deal with the problem of corona virus. The corona virus is spread through contact with one person to another. The purpose of these decisions is to control the spread of the corona virus while reducing contact. Thousands of new cases are coming out every day from around the world while hundreds of people are dying. Lockdown conditions are being seen in many cities and countries across the world. Effective provisions have been rapidly implemented to curb the infection of corona virus in the country. Major provisions of the Epidemic Diseases Act 1897 as well as Disaster Management Act 2005 have been implemented in the country. The major provisions implemented under the Disaster Management Act 2005 are as follows-

Section 2 Definitions - In this Act, unless the context otherwise requires,

- (a) "affected area" means an area or part of the country affected by a disaster;
- (b) "capacity-building" includes -
 - (i) identification of existing resources and resources to be acquired or created;
 - (ii) acquiring or creating resources identified under sub-clause (i);
 - (iii) organization and training of personnel and coordination of such training for effective management of disasters;
- (c) "Central Government" means the Ministry or Department of the Government of India having administrative control of disaster management;
- (d) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;
- (e) "disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for -
 - (i) prevention of danger or threat of any disaster;
 - (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
 - (iii) capacity-building;
 - (iv) preparedness to deal with any disaster;

- (v) prompt response to any threatening disaster situation or disaster;
- (vi) assessing the severity or magnitude of effects of any disaster;
- (vii) evacuation, rescue and relief;
- (viii) rehabilitation and reconstruction;
- (f) "District Authority" means the District Disaster Management Authority constituted under sub-section (1) of section 25;
- (g) "District Plan" means the plan for disaster management for the district prepared under section 31;
- (h) "local authority" includes panchayati raj institutions, municipalities, a district board, cantonment board, town planning authority or Zila Parishad or any other body or authority, by whatever name called, for the time being invested by law, for rendering essential services or, with the control and management of civic services, within a specified local area;
- (i) "mitigation" means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;
- (j) "National Authority" means the National Disaster Management Authority established under sub-section (1) of section 3;
- (k) "National Executive Committee" means the Executive Committee of the National Authority constituted under sub-section (1) of section 8;
- (l) "National Plan" means the plan for disaster management for the whole of the country prepared under section 11;
- (m) "preparedness" means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof;
- (n) "prescribed" means prescribed by rules made under this Act;
- (o) "reconstruction" means construction or restoration of any property after a disaster;
- (p) "resources" includes manpower, services, materials and provisions;
- (q) "State Authority" means the State Disaster Management Authority established under sub-section (1) of section 14 and includes the Disaster Management Authority for the Union territory constituted under that section;
- (r) "State Executive Committee" means the Executive Committee of a State Authority constituted under sub-section (1) of section 20;
- (s) "State Government" means the Department of Government of the State having administrative control of disaster management and includes Administrator of the Union territory appointed by the President under article 239 of the Constitution;
- (t) "State Plan" means the plan for disaster management for the whole of the State prepared under section 23.

Section 51. Punishment for obstruction, etc

Whoever, without reasonable cause -

1. obstructs any officer or employee of the Central Government or the State Government, or a person authorized by the National Authority or

- State Authority or District Authority in the discharge of his functions under this Act; or
2. refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,
3. shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

Punishment for False Claim

Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

Punishment for misappropriation of money or materials, etc

Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or willfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

Punishment for false warning

Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

Offences by Departments of the Government

1. Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.
2. Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Failure of officer in duty or his connivance at the contravention of the provisions of this Act.

Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

Penalty for contravention of any order regarding requisitioning

If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Offence by Companies (1)

Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Explanation.-*For the purpose of this section- (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director", in relation to a firm, means a partner in the firm.

Previous sanction for prosecution

No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorized in this behalf, by general or special order, by such Government.

Cognizance of offences

No court shall take cognizance of an offence under this Act except on a complaint made by- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorized in this behalf by that Authority or Government, as the case may be; or (b) any person who has given notice of not less than thirty

days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorized as aforesaid.

Aim of the Study

To analyze the prevailing laws under the Epidemic Diseases Act and other related Acts of the country to deal with the present situation.

Conclusion and Suggestions

In view of the current situation arising out of the Pandemic Covid- 19 , it would be appropriate that necessary amendments and changes should be made in the 123years old Epidemic Disease Act, keeping in mind the current circumstances and changing global environment. The Epidemic Diseases Act 1897 is a hastily passed cruel Act by the British Government, on the basis of which the army used to force patients and suspects into isolation camps. Instead of administering the treatment to the patients the then British Government used to put patients in isolation camps for dying, but today the team of doctors and experts are working on a war footing to deal with the Covid-19 pandemic in the country. The present government is making all possible efforts to make the essential goods available to the people. Isolation rooms have been built in large numbers. The people should not come into contact with each other and become the bearers of infection, so the Epidemic Diseases Act- 1897 has been implemented, but the government is taking all steps to help people. To prevent Pandemic Covid -19, not only the government but all institutions, Organizations, private and public sectors, and individuals will have to make efforts at their level. Behavior Change, Awareness, Positive Attitude and following Medical and legal guidelines is the key to conquer this pandemic. With this hope and belief that we conquer this Pandemic soon by following laws and guidelines issued by the government from time to time, below suggestions are presented on the basis of present study –

1. Under the Epidemic Act, the epidemic / pandemics that have spread in the country and the world and the measures to prevent them should be mentioned and provisions should also be made to make the general public aware of such epidemic / pandemics.
2. Confusion and apprehension arises due to the use of the provisions provided in different Acts, so it would be better to compile all the relevant rules, provisions and directives related to the epidemics under one Act. It would be appropriate to use the provisions of other Acts only under special circumstances.
3. covid-19 is a natural disaster or man-made, it will be cleared only with time to come but from today onwards our governments and the people should work on all fronts consciously and try to implement and follow the necessary rules, instructions and laws.
4. There are also reports from around the world that some anti-social elements and institutions are deliberately trying to spread the epidemic with ill

- intention, if it is confirmed then the provision of severe punishment against such persons or institutions should be made under the Epidemic Diseases Act.
5. Procedures used to deal with a epidemic/pandemic situation such as Lockdown, Social Distancing, Quarantine, Isolation, etc. should already be duly defined, practical and practicable and provisions should be made for the general public regarding information of their viability and utility so that the general public may not be afraid or a situation of confusion can be avoided.
 6. The possibility of biological warfare in the future can not be ruled out. Today, there is also speculation that Novel Corona Virus has been originated by humans in the laboratory, which is being investigated by agencies around the world in its own way. If this is true then it is a serious matter on which the government of the country will have to think seriously and take appropriate steps in time.
 7. Considering the attacks on Corona warriors across the country, it is necessary that special provisions should be made for safety and security of the people who are doing necessary duties to protect the public from epidemic. These provisions should be made in such a way that people engaged in prevention from epidemic can fulfill their responsibilities in an environment free from fear.
 8. Since a large number of people suffer from mental stress along with physical problems during the epidemic period, the provision regarding proper availability of services like Counseling, Guidance and Psychotherapy, as well as Prevention Measures and Medical Treatment should also be provided.
 9. Instead of treating patients and suspects as criminals, proper and strict arrangements should be made to provide positive support and boost their morale which is the responsibility of the government as well as the moral and social duty of every person.
 10. The following special provisions should be made for the people working for the general public or society at risk during the epidemic-
 - a. Instructions and Provisions related to self-protection from epidemics
 - b. Instructions and Provisions to avoid physical and mental problems
 - c. Instructions and Provisions relating to the care and protection of the families of such persons
 - d. Instructions and Provisions for economic and social security
 - e. Other necessary Instructions and Provisions

References

1. *Bhattacharya T. "Indian Penal code," 5th Edition, Central Law Agency, Allahabad (2007).*
2. *COVID-19: What to do if you develop symptoms while away from home*
3. <https://newsnetwork.mayoclinic.org/discussion/covid-19-what-to-do-if-you-develop-symptoms-while-away-from-home/>
4. "Covid-19 is bio warfare...", *From siasat.com*
5. *Coronavirus (COVID-19) Guidelines for patients and visitors*
6. https://www.mayoclinic.org/coronavirus-covid-19?_ga=2.127590927.368706523.1586945047-765827630.1586945047
7. "Corona virus conspiracy theory ...," <http://m.economictimes.com>
8. *Corona Virus know The Meaning of Lockdown...*
9. <http://www.amarujala.com.cdn.ampproject.org>
10. *Gandhi B.M., "Indian Penal code," 2nd Edition, Eastern book company, Lucknow (2006).*
11. *GaurNarainShri, "Indian Penal code 1860", Dwivedi & Company Allahabad (2005).*
12. <https://www.Merriamwebster.com>
13. <https://www.Panademic-merrionwebster.com>
14. *Indiatoday.in – Delivered by Google*
15. "Kanpur : Corona warriors attacked in...", news.abplive.com
16. *Mayo Clinic Q and A: Different types of COVID-19 tests*
17. <https://newsnetwork.mayoclinic.org/discussion/mayo-clinic-q-and-a-the-different-types-of-covid-19-tests/>
18. *'One World: Together At Home' Global Special*
19. <https://www.who.int/news-room/events/detail/2020/04/18/default-calendar/one-world-together-at-home-global-special>
20. "Stigmatised : India's Corona Virus heroes...", [aljazeera.com-delivered by Google](https://www.aljazeera.com-delivered-by-Google).
21. *Science Saturday: The new super power of handwashing*
22. <https://newsnetwork.mayoclinic.org/discussion/science-saturday-the-new-super-power-of-handwashing/>
23. *Tandon Prasad Mahesh, "Indian Penal Code," Allahabad Law Agency, Faridabad (2006).*
24. "Wuhan lab did absolutely crazy things to...", [from the sun.co.uk-delivered by Google](https://www.fromthesun.co.uk-delivered-by-Google).
25. *WHO/disease outbreak – https://www.who.int*
26. *Watch Dr. Nipunie Rajapakse talks about terms related to COVID-19:*
27. <https://youtu.be/19ca3LMQnbk>
28. *The Epidemic Disease Act, 1897*
29. *The Disaster Management Act, 2005*
30. *Terms like epidemic, pandemic, quarantine and incubation period have been used in relation to COVID-19. Dr. Nipunie Rajapakse, a Mayo Clinic infectious diseases specialist, offers an explanation of terms that you may hear in the news as COVID-19 information evolves:*
31. <https://newsnetwork.mayoclinic.org/discussion/covid-19-terms-to-know/>