



COVID 19 PANDEMIC SITUATIONS: - UNDERSTANDING THE LAW, RIGHTS AND RESPONSIBILITIES

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INTRODUCTION

Pandemic means a wide spread Epidemic Disease which in critical situation affects a larger number of people or group and over a very large Geographical area transcending many countries. It occurs suddenly due to some viral or other outbreak conditions and influenced by various factors including climatic changes. Seasonal Epidemics occur across international borders which in turn affects a large number of people. It also should be noted that just because a disease spreads among people little widely and kills them, it cannot be recognized as a Pandemic. To classify as Pandemic, a disease must possess a strong infectious character and have wildfire spread and also pose serious threat over a large geographical area affecting more number of people than expected. Some of the Pandemics apart from Novel Corona Virus (2019) which affected the world in the past few Centuries are Spanish Flu, Plague, Influenza, Smallpox, Cholera, AIDS, Ebola Virus, H1N1 or Swine Flu etc. causing a huge spread and fatalities. Similarly some Epidemic diseases like Nipah, Meningitis, Marburg Virus, Monkeypox etc have been posing trouble to mankind with outbreak or occurrence on and off and continue as threat to mankind.

The major pandemic that is presently the cause of concern world over is Corona Virus which is also known as COVID-19 (Corona Virus Disease) which emanated from the City

of Wuhan (China) which reportedly started in September 2019 and has caused wildfire spread globally.

In Pandemic situations the lives of greater majority of the people is at great risk. So Governments, Individuals, Corporates (which includes producers, employers etc) own big responsibility and the rights and duties of each assumes great relevance to bring order and safer living for all.

IMPORTANT PANDEMICS/EPIDEMICS THE WORLD HAS FACED

✚ Influenza(1580) and Spanish Flu 1918

Influenza is a disease which affects the respiratory organs and causes pulmonary illness and suffocation has been there since 1580 and a major one was in 1918-1919 from Spain and spreading over 500 million people and death to more than 4 million people. A live Vaccine was invented in 1933 and improved upon in 1942 which has a success rate of 50%. A word of caution at this juncture is that Flu can reoccur and timely treatment and secondary follow up is the key for successful treatment. Even now annually to 40 to 56 million infections are reported and death of 2.5 to 5 Lakh due to Flu worldwide.

✚ Cholera (1817 -1824, 1961, 1971 &1991)

Cholera is an infectious disease that spreads due to contaminated water causing severe watery diarrhea. Cholera disease is caused by a Bacterium **vibrio cholera** which releases a toxin in the small intestine giving severe pain in the abdominal area and leads to large mucus discharge and frequent stool release which causes severe dehydration and even lead to fatalities. The treatment is with ORS supplements and medication and when attended in time it is safely treated and cured.



In India in 1817 in Ganges plain the Cholera disease started and spread till 1824 to various places in India and Pan Asia leading to death of little above 1 million then. In the 1800s United States of America had a severe spread of Cholera leading to and this was controlled with implementation of modern sewerage and good sanitary water treatment systems. However between 1832 and 1849 in 2 major bouts about 1.5 Lakh people died. Cholera has been recorded sporadically further like the 1961 outbreak in Indonesia further hits globally on and off is observed. It is estimated that every year millions of Cholera cases are reported globally and people in Lakhs die due to delay and improper treatment.

✚ **Bubonic Plague (1896)**

Bubonic Plague is caused by a Bacterium, *Yersinia pestis* which can be transmitted from a host such as a rat to a human through the bite of an animal or insect (such as flea). Hence a great spread became inevitable in the conditions as then was in Mumbai in specific and in India in general. The death was about, 25million people. The severity of this disease lead to the first legal enactment in India under British rule with the passing of The Epidemic Diseases Act 1897, which is being followed in India till the present to deal unto such situations.

✚ **Crimean-Congo Hemorrhagic Fever (1944)**

This viral Haemorrhagic fever is caused by ticks. Symptoms include headache, muscle pain, dizziness, neck pain and stiffness, backache, sore eyes and photophobia (i.e. sensitivity to light). The risk of death is about 25%. High risk people are those who work in slaughter houses. Direct vaccine is not available and only supportive treatment is there.

✚ **Monkeypox (1958 , 1970-1986)**

Monkeypox is a viral zoonotic disease primarily occurring in tropical rainforest areas of Central and West Africa and some traces outside was first traced in Monkeys in 1958 and spread to human beings in 1970. Symptoms are fever with rashes and swollen lymph nodes. This virus is mostly transmitted to people from wild animals such as rodents and primates, but human-to-human transmission also occurs by contact with lesions, body fluids, respiratory droplets and contaminated materials such as bedding. The fatality is upto 10%. Treatment is not clear but at best is controlled with some vaccines

✚ **Marburg Virus (1967)**

Marburg Virus is considered to be extremely dangerous with symptoms of high fever, severe headache, malaise and muscle aches, watery diarrhea, abdominal pain and cramps, nausea, vomiting and severe hemorrhage and fatality of about 50%. People get infected from prolonged exposure to mines or caves inhabited by *Rousettus bat* colonies. Cases first reported in Marburg and Frankfurt Germany in 1967 and further reported in Belgrade, Serbia etc. and there is no specific treatment.

✚ **Lassa Fever(1969)**

Lassa Fever is a dangerous infectious disease that causes a type of Viral Hemorrhagic Fever in humans. It is endemic in West African countries, especially Sierra Leone, the Republic of Guinea, Nigeria, and Liberia, where the annual incidence of infection is between 300,000 and 500,000 cases, resulting in 5,000 deaths per year. Treatment is with Ribavirin intravenous administration along with fluid support, oxygenation and BP management.

✚ **Ebola Virus(1976)**



It is a virus that causes severe bleeding and organ failure that results in causing death. It spreads among humans through contact of body fluids and results in symptoms such as fever, aches and pains, abdominal pain, bleeding, dehydration. A single dose of rVSV-ZEBOV vaccine is used to cure Ebola.

✚ **Human Immuno-Deficiency Virus –HIV (1920 & 1985)**

HIV was first reported in Monkeys in 1920 and it spread in large measure in human beings in 1985. This virus damages the immune system hence one becomes weak to fight against infections and die. Worldwide so far more than 75 Million were infected and more than 32million people have died. Even now this disease cannot be cured completely but proper medication can decrease the infecting power and rate of spreading.

✚ **Hendra Virus Infection(1994)**

Hendra Virus Infection is a rare emerging disease and the host virus is from fruit bats and passed through contact from Horses. In most cases the fever is severe and often fatal in both infected horses and humans. Treatment is only by Secondary management.

✚ **Nipah Virus (1999)**

Nipah virus is a zoonotic virus (it is transmitted from animals to humans) originated in Malaysia. It is transmitted through contaminated food or directly between people. The symptoms are fever, cough, headache, confusion and gets complicated with inflammation of brain and seizures leading to coma and death. In 1999, the Malaysian Government ordered for killing of Lakhs of pigs to control this disease spread. Even now there is no direct medical

treatment and only secondary treatment is possible.

✚ **Meningitis (1887 &2001-2002)**

Meningitis is an inflammation of the Meninges (which consist of three membranes) that cover the brain and spinal cord. It is usually caused by a viral infection but can also be bacterial or fungal. The Symptoms include headache, fever and stiff neck. First reported in 1887 it had a viral spread in 2001-2002 with about 40000 cases spread over larger areas. Bacterial and Fungal Meningitis is cured with medication and Viral Meningitis controls only by self immunity development as no medicine is developed in proper.

✚ **Malaria**

Malaria is one of the most severe deaths causing disease in different forms world over causing death of millions every year. Some of the feared ones are Dengue, Chikungunya etc. The treatment is more by fever management with Chloroquine and secondary treatment, but prevention is not possible.

✚ **H1N1 Virus or Swine Flu (2009)**

This viral infection is of the flu category. There is no direct vaccination and only secondary medication care and assistance is provided. It is estimated that since 2009 worldwide 700 to 1400 Million cases are reported with death of about 1.5 Lakh to 6 Lakh worldwide. No clear vaccine but it is believed that with secondary treatment and developing immunity mankind has survived.

✚ **Corona Virus (1960 and Present)**

Corona Virus is a group of related RNA viruses that cause diseases in mammals and birds. In humans, these viruses cause respiratory tract



infections that can range from mild to lethal. Mild illnesses include some cases of the common cold. The Corona Virus infection has been seen for many decades since 1960 causing cold sort symptoms and with various strains mutating out. The present one called the Novel Corona Virus a mutagenic strain of the year 2019 causing Corona Virus Infection Disease or more popularly called as COVID19. The present strain is highly infectious and very highly contagious and spreading by contact physical and of source point touch or by airborne infection spread. The infection treatment is tough as there is no direct antidote and the disease is proving more fatal. The Symptoms include fever, tiredness, and dry cough. The infection spread is seen in all countries in few months itself and infected more than 11 Million people and caused death of more than 5 Lakh people worldwide and in India nearly 5 Lakh people are infected with about 17000 (as on June 30, 2020).

GOVERNMENT AND GLOBAL, SECNARIO –LAW, RIGHTS AND RESOINSIBILITIES

In Pandemic situations a heavy responsibility rests with Governments and also with others and also of World Bodies. In such situations all the Nation States and every possible Individual and Social Groups should render assistance, support and follow disciplined response for common good.

World Health Organization (WHO) under United Nations after the Wuhan outbreak of COVID19 issued a series of statements and advises to the whole world and sought all Nation States, Organizations and Individuals to understand the seriousness of this COVID19 viral spread which has been very highly contagious and spreading by contact physical and of source point touch, airborne

infection spread and the infection treatment was tough and even proving more on fatal nature.

WHO and all medical teams in the absence of anti-viral medication had advised Social Distancing and to avoid physical contact with others and further use of Face Mask and other secondary safety measures at home, work and public place etc. WHO also advised all to follow safe measures all out. In furtherance to same most Nations prescribed Lockdown measures and prevented movement of people since December 2019 till now globally. Similarly since 23rd March, 2020 India is under a virtual lockdown and the economy and society is put to deep slumber.

The lockdown has closed all activities and movement of people, produce and economy is almost on standstill. Whereas the community spread and deaths etc are not controlled and the claim of Vaccine and for complete cure seems far-fetched. Under these further trying circumstances a collective responsibility is there to bring the situation to normalcy and control. State has role to deliver social justice and pursue amongst other on support and enforcement measures.

Legal Enactment and Enforcement

The first legal enactment in India regarding Epidemic Diseases is The Epidemic Diseases Act, 1897 enacted when the Bubonic Plague infection which originated in China sometime in early 1800s was not quarantined by the ruling Qing Dynasty and it over the decades spread beyond its borders and somehow spread in Mumbai in September 1896 through wild rats. This infection from rats in the low community tenements of Mumbai spread virally and the initial symptoms of fever etc were mistaken for Typhus or Malaria and within a week of infection there was swelling of lymph nodes



in Groin and Armpits (buboes) and within 48 hours death resulted in most cases and mortality was more than 60% and death was piling up. Further the famine was also adding to the problem of death more in numbers and the death started to spread to Pune, Ahmadabad and other places without respite. The extension of the Bombay Municipality Act 1888 did not give enough scope for the administration to contain the epidemic and death. Hence the British Government based on the Venice Sanitary Convention 1897 enacted The Epidemic Disease Act 1897 which came to force on 4th February 1897.

Under the 1897 Act Government passed regulations prohibiting the following:- (1) Pilgrimages to Mecca, (2) Emigration from India, (3) Railway bookings, (4) Religious gathering, (5) stocking of essential items etc and also gave to powers to search house to house and take out the infected and put in hospitals. Further makeshift hospitals were also created to treat patients. The British Officer in Pune Walter Charles Rand who was deputed as Plague Commissioner who, was aggressive in follow-up which was disliked by the great Freedom Fighters Gopalakrishna Gokhale and Bal Gangadhar Tilak and there were some other agenda for opposition for them. Tilak went to condemn the British action in his Newspaper “Kesari” and “Maratha”, accusing their search operations as ransacking actions and tarnished the British which incited violence. Influenced by this article, Damodar, Balakrishnan and Vasudev Chapekar (Chapekar Brothers) shot dead Commissioner Rand when he was returning from the Queen Victoria Golden Jubilee celebrations. The Chapekar Brothers were tried for extremist’s activity and hanged. Further for inciting violence by wrong reporting Tilak was tried under various

provisions including the provision of 1897 Act and was punished with 18 months of Rigorous Imprisonment. This was the first case law on Epidemic period disturbances in India.

THE EPIDEMIC DISEASE ACT, 1897 (A BRIEF EXTRACT)

✚ **Section 1 - Explains Title and Scope of Act.**

✚ **Section 2 – Deals on Power to take special measures and prescribe regulations as to control the dangerous epidemic disease**

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

✚ **Section 2A – Details on Powers 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 and for such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.

✚ Section 3 – Deals on Penalty

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

✚ Section 4 - Protection to persons acting under Act

No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

INSTANCES OF IMPLEMENTATION OF 1897 ACT BY NOTIFICATION

- ✚ In Pune (2009) to tackle the great outbreak of **SWINE FLU** and screening centres was set up at all the hospitals in Pune thereby marking this as a notifiable disease and a priority.
- ✚ In Chandigarh (2015) to deal with the widespread of Malaria and Dengue there and enforcing penalties and collected huge fines.
- ✚ In Vadodara (2018) The District Collector of Gujarat's Vadodara issued a notice in 2018 under this Act declaring Khedkarmsiya Village, Waghodia Taluka as a hotspot for Cholera area after 31 persons complained about the symptoms of Cholera.-
- ✚ On Pan India basis (2020) the latest COVID-19 crisis presently has been a challenge and Government ensured to declare the Act to be enforced upon

very tightly since the cases were multiplying in large numbers. Further to save a Nation-wide lockdown was implemented and other further measures were initiated. The State of Karnataka has been the first State to notify enforcement of measures under 1897 Act and this was followed by other states.

In present times as one finds our Nation grappling with unprecedented challenges from maintaining law and order and to contain the viral spread and to ensure safety and provide access to medical facilities, food and social security to availability of medical facilities to all people. The Ministry of Health and Family Welfare in its press release dated April 22, 2020 said that, "perceived as carriers of the diseases, there has been stigmatization and ostracisation and sometimes worse, acts of unwarranted violence and harassment against our medical professionals. Such a situation tends to hamper the medical community from performing their duties to their optimum best and maintaining their morale, which is a critical need in this hour of national health crisis."

Further to the developments in the present trying situation in 2020 and due to urgency the Central Government passed a Special Ordinance to strengthen the 1897 Act.

Special Ordinance 2020

At hour of crisis there have been certain very serious adverse developments affecting the activities and safety of support staff under COVID19 duty. In Indore there was a serious issue of attack over doctors and nurses in a particular area where they had gone to



conduct a regular health check-up. Similar threats and difficulties were faced at various places. These adverse activities seriously jeopardized the morale of the COVID19 Warriors in duty. Hence the Government of India on 22nd April 2020 passed an ordinance to amend the existing Act of 1897 with special provisions to punish those who attack doctors and other health workers.

Under present Ordinance, any person or individual who attacks a Doctor or any other Health Worker is liable to be sentenced with seven years of jail (imprisonment) and the offence is cognizable and non-bailable. Further these Cases have to be adjudicated within prescribed period of 1 year. The Ordinance also specifies that the guilty will have to pay twice the market value of damaged property as compensation for damaging the assets of health care staff including vehicles and clinics etc.

OTHER LAWS & ACTS RENDERING SUPPORT ENFORCING LAW ON PANDEMICS IN INDIA

1) INDIAN PENAL CODE, 1860

- ✚ Section 188 - makes disobedience of an order promulgated by a public servant with punishment of simple imprisonment upto a period of 1 year or with a fine exceeding upto Rs.200 or both. In case if the act 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 Rs.1000/-, or with both.

This provision is in correlation to Section 3 of the Epidemic Diseases Act, 1897, provides penalties for disobeying any regulation or order made by the authorities.

- ✚ Section 269 - makes any negligent act likely to spread infection of disease dangerous to life as punishable with imprisonment of either description for a term which may extent upto 6 months or with fine or both.

- ✚ Section 270 - makes any malignant act (i.e. deliberate intention) likely to spread infection of disease dangerous to life punishable with imprisonment of either description for a term which may extent upto 2 years or with fine or both.

- ✚ Section 271 - is a non-cognizable offence and anyone who disobeys the quarantine rule is liable for punishment for a term of six month or fine, or both. The offence is bailable but non-compoundable

- ✚ Section 505(1) – prescribes punishment for making, publishing or circulating any statement, rumor or report which may cause fear or alarm to the public, or to any section of the public or incite or likely to incite any class or community of persons to commit any offence against State or public tranquility. The Punishment for same is



Imprisonment which may extend to 3 years or fine or both.

2) THE INDIAN CONSTITUTION, 1950

- ✚ Article 21 guarantees everyone the protection of life and personal liberty. This enshrines the highest attainable standards of physical and mental health and thus every citizen of our country has the foremost right to seek any form of medical help or service that is provided by the Government in an effective and proper manner.
- ✚ The Directive Principles of State Policy under Part IV prescribes responsibilities to State to create a condition of social and economic well-being enabling citizens a good life. Though it is not justifiable, yet States shall make every endeavor to take steps.
- ✚ Article 39(a) – To provide adequate livelihood
- ✚ Article 41- state within its capacity to provide public assistance.
- ✚ Art 43- To take steps to ensure a decent standard of living
- ✚ Article 47 - It is the duty of the State to raise the level of nutrition in order to improve public health and a standard of living.
- ✚ Article 47 – To prohibit the consumption of intoxicating drinks and drugs – TASMAL etc shops closed
- ✚ Art 37 – DPSPs are fundamental in governance of the country and it shall be the duty of State to apply these principles in making laws.
- ✚ Article 243ZD which is a mandatory constitutional provision for existence of a District Planning Committee in

every state which consolidates all the plans prepared by the Panchayat and Municipalities. Hence these arms have a great role in local administration support in present Pandemic situation.

The States abiding by above provided free rations, food, provisions etc to people, some States like TamilNadu Delhi etc. provided free food for all through localized central distribution centres. Further Medicine, testing and treatment was provided by State Free of cost as far possible and also involved each and every arm of local self government and volunteers to enlist and screen details and take tests etc. State also permitted NGOs to provide support with food, essential, medicines, masks, sanitizer, cleaning and clearing etc

It is also observed that further to the 1897 Act some of the States have passed their own special enactments in line with the Central Act they are Rajasthan (1957); Punjab (1958); Madhya Pradesh (1958) Dadra Nagar Haveli (1965)

3) ESSENTIAL SERVICES MAINTAINANCE ACT, 1968

- ✚ This Act has been passed to ensure the delivery of certain services, which if obstructed would affect the normal life of the people. Each state has a separate state Essential Services Maintenance Act with slight variations from the Central Law to regulate and protect essential services like –Telecom, Electricity, PDS, Banking, Milk, Medicines, etc which provide support to common man. Under the scope of this Act such service personnel have been exempt from lockdown directions, since their role needs to be there for serving needs of people.



4) CODE OF CRIMINAL PROCEDURE, 1973

✚ The Code of Criminal Procedure commonly called Criminal Procedure Code (CrPC)(1) is the main legislation on procedure for administration of substantive criminal law in India and enacted in 1973 (came into force on 1st April 1974).

✚ Section 144 of the Code authorizes the Executive Magistrate of any state or territory to issue an order to prohibit the assembly of four or more people in an area as preventive measure. Wrongdoers under Sec.144 of the Code are punished with an imprisonment of 6 months. It is further to be noted that no order under Section 144 shall remain in force for more than two months but the State Governments can extend the validity for two months and maximum up to six months. It can be withdrawn at any point of time if situation becomes normal.

5) INFORMATION TECHNOLOGY ACT, 2000

✚ Under Section 66A the punishment for spreading offensive or inappropriate information through any communication service which is false in nature and has menacing character in order to cause annoyance or mislead the situation, shall be imprisoned for a term which extend to three years and with fine.

Though Supreme Court has struck down this section as unconstitutional because it has a wide scope and violates article 19(1)(a) which is freedom of speech and expression, yet considering the situation of Pandemic crisis Police have initiated action in many

places as many fake news and messages were shared in tech-media.

The Maharashtra Police has filed more than 400 Cyber crime cases linked with COVID19 7 and 234 persons have been arrested. Of the above 169 relates to Whatsapp, 157 to Facebook, 18 to Tik-Tok 7 to Twitter and 4 to Instagram. Similarly in Bengal a 29 year lady Chandrima Bhowmik was arrested for posting false and wrong information that a Doctor at Government ID Hospital, Beliaghata was Corona infected.

6) DISASTER MANAGEMENT ACT, 2005

This Act was enacted to provide guidelines and enforcement scope to manage disasters, including preparation of mitigation strategies, capacity-building etc. in times of crisis and calamities, the salient provisions are :-

✚ Section 11 - To draw a National Plan. This could refer to the National Disaster Management Plan, 2019 and of the Biological Disaster Management Guidelines, 2008.

✚ Section 14 - To establish a 'State Disaster Management Authority with Chairmanship of the Chief Minister of the State assisted by State Executive Committee, the Chief Secretary of the State to prepare the State Disaster Management Plan following the guidelines of National Authority along with the District and Local Authorities.

✚ Section 25 - stipulates the constitution of 'District Disaster Management Authority' which falls under the District Collector/ Magistrate who has to be assisted by the Chairperson of the District Council in the capacity of Co-Chairperson of the District Authority.



✚ Section 31 - To prepare a District Plan in vulnerable areas and for measures to be taken.

✚ Section 41 - Local authorities which include Panchayats, Municipalities and Cantonment Boards which have to carry out all the relief, rehabilitation and reconstruction activities under the directions given by the District Authority.

✚ Section 51 - Prescribes punishment for obstruction, where

(a) Anyone without a proper and a reasonable cause opposes any officer or any employee of the Central or State Government in the discharge of his functions under this act.

(b) Denies complying with any direction or order given by or in behalf of the Central Government or State Government or any other superior authority related to this act. People who don't accept the above said laws shall be punishable with an imprisonment upto one year or fine or both. Those who don't abide by the said order or direction shall be punished with an imprisonment for a period of 2 years upon conviction.

✚ Section 52 – Prescribes punishments for false claim, under which anyone with his knowledge gives or makes a false statement for obtaining any relief, repair, assistance, reconstruction or any other benefits related to disaster from any officer of the Central or State Government shall be punished with imprisonment which may extend to a period of two years and also with fine upon conviction.

✚ Section 53 - Prescribes punishments for misappropriation of money or materials that are meant for providing relief in any disastrous situations where they use it for any of their own purposes or disposes of such money

or materials are punished with an imprisonment term of two years and also with fine.

✚ Section 54 - Prescribes punishment for creation or circulation of a false alarm regarding any disaster, its severity or magnitude which leads to a panic situation. Punishment under this section which involves an imprisonment upto a period of 1 year or fine.

✚ Section 55 - Specifies about the offences by the Departments of the Government

(1) Where any Department or the head of any Department of the Government is found guilty of committing any offence shall be liable to punishment unless he proves that he is not guilty of the said offence that was done without his knowledge.

(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.

✚ Section 56 - Describes about the failure of officer in duty or his connivance at the contravention of the provisions of this act, where any officer who ceases or refuses to perform or withdraws himself from the duties prescribed to him without obtaining any form of written permission from that of his superior officer shall be punished with an imprisonment for a term of one year or with fine.

✚ Section 57 - Prescribes penalty for contravention of any order regarding



requisitioning, where any person who contravenes any order made under Section 65 (Power of requisition of resources, provisions, vehicles, etc., for rescue operations) shall be punished with an imprisonment term of one year or with fine or with both.

✚ Section 58 – Describes the offences by Companies

(1) any offence committed by a company or body corporate, every person who at the time of offence was committed, any person in relation to the company shall be held guilty of contravention and shall be liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this act committed by a company, and it is proved that the offence was committed with the consent of connivance of (or) is attributable to any neglect on the part of any director, manager, secretary or any other officer of the company, such directors, 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.

✚ Section 59 - states that, 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 any officer authorized in this behalf, by general or special order, by such Government.

✚ Section 60 - Specifies about the Cognizance of offences, where no court shall take cognizance of an offence under this Act except on a complaint made by:-

1) The National or State or the Central or the State Government, District Authority or any other authority on behalf of the Government.

2) Any person who has given a 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, State Authority, the Central Government, the State Government, the District Authority or any other Authority or officer authorized aforesaid.

✚ Section 62 – Provides extraordinary powers to The Union Government by which any authority in the Union such as Ministries, Statutory Bodies and State Governments are bound to take directions from the Nodal ministry of the Central Government.

OTHER UNIVERSAL LAWS

Article 25(2) of the Universal Declaration of Human Rights and Article 7(b) of the International Covenant on Economic, Social and Cultural Rights have been cited by the Supreme Court in determining the right to health by a worker. The above mentioned covenants find their statutory acceptance from the Statement of Objects and Reasons of the Protection of Human Rights Act, 1993.

✚ The International Health Regulations, 2005(2) gave powers to the World Health Assembly under the World Health Organization to adapt to regulations that were designed to prevent the international spread of any disease or such.

✚ In 1997, the WHO established an Outbreak Verification System to gather information, verify reports of, and track infectious disease outbreaks. In addition, the WHO regularly distributes to certain public health officials and scientists an Outbreak Verification List as a means of following up on reports of various outbreaks of disease.(3)



✚ In 2000, WHO established a network of surveillance systems called the Global Outbreak Alert and Response Network (GOARN)(4) . The WHO gathers this raw intelligence and converts it into “meaningful intelligence,” using six main criteria “to determine whether a reported disease event constitutes a cause for international concern.” This Response team includes WHO Country Offices, WHO sub-Regional Response Teams, WHO Regional Offices, and the Alert and Response Operations Centre team in Geneva and disease specialists.”

✚ The first global conference on SARS held June 18–19, 2003, in Kuala Lumpur, Malaysia, was convened by WHO to provide technical guidance for the ongoing and long-term response to SARS. The officials discussed about the proper treatment and control of the SARS-CoV disease, where various clinical laboratories could not distinguish this form of disease from that of the other respiratory illness rapidly enough to inform management decisions that must be made soon after the patient presents to the healthcare system,” and so early clinical recognition of the disease “still relies on a combination of clinical and epidemiologic features.”(5)

✚ WHO (World Health Organization)

The World Health Organization under the United Nations is responsible for maintaining public health at international level advising and implementing measures globally on health care and global well-being. WHO has been mandated by a series of world health assembly that provides various resolutions to member states with guidance and technical support in Pandemic situation. They are:-

1) **WHA 56.19:** This deals with prevention and control of pandemic at large.

2) **WHA 58.5:** Explains about straightening the pandemic preparedness and response plan.

3) **WHA 60.28:** explains about the pandemic preparedness plan, access to vaccines and other benefits.

✚ International Health Regulations (IHR 2005)

It is an international legal instrument framed by the World Health Assembly in 2005 which legally binds its Party states worldwide to provide a legal frame work globally to aid, control, prevent and to respond to public health risks that may spread between countries. Under this, a list of reporting requirements obligate the party states to provide information to WHO of the list of cases or events involving a range of public health risks and disease. The notification is followed by the ongoing communication of detailed public health information on the event, including, where possible, laboratory research, case definitions, no. Of cases and deaths, conditions affecting the spread of disease etc. WHO is the sole authority mandated under the IHR (2005) which collects reports from official and unofficial sources of the serious international public health risks, after preliminarily assessment, to obtain verification of such reports from states. The party states are required to respond to the WHO within a prescribed time period and include the available relevant public health information.

All public health events, including those which may involve a pandemic situation are notifiable under the IHR (2005) if they fulfill at least two of the contextual risks assessment criteria in the regulation:-

1) If the event is unexpected or unusual.



- 2) If there is a significant risks on international travel or trade restrictions.
- 3) If there is significant risks of international spread.
- 4) If the public health impact is serious.

The IHR (2005) instructs the party states to develop a national public health capacities to assess Detect and respond to event and to report all these information to WHO.

Instances of invocation of Special Legal Provisions and the Ordinance of 2020 to the 1897 Act

- ✚ So far 55 Journalists all over India have been booked for violation and further to same 22 FIRs were filed and action initiated. In Tamilnadu the newspaper Nakkeran as tried for irresponsible reporting in 2020.
- ✚ Under the scope of the Act Maharashtra Government has initiated 51 cases for spreading rumors
- ✚ In Lucknow (UP) the Fake Godman Ahmad Siddiqui claiming as Coronawala Baba, who prescribed his talisman against use of, facemask was arrested for Fraud and Forgery.
- ✚ In Odisha a person was arrested
- ✚ In Tamilnadu the famous News reader and actor has been booked for spreading false information of Non-Availability of Hospital Beds for COVID19 treatment.

ROLE OF GOVERNMENT IN A PANDEMIC SITUATION

Society is a mixture at large who are regulated and controlled by a superior authority which is Government/State. This authority is responsible for a proper governing of a particular area and is also responsible of the safety of citizens who fall under its ambiguity. The Government focuses in a pandemic situation for controlling and for necessary preparedness

by playing a significant role not only through the health sector, but also with the help of all other sectors and further reaching individual and families, and communities in mitigating the effects of the pandemic. All these sectors of the society work together as a whole involving themselves in a pandemic preparedness under the Control of the National Government.

The National Government at the Centre under the Indian Quasi Federal setup is responsible for ensuring uniform and better practices and coordination in a pandemic situation and ensure for preparedness response. It has to indentify, appoint, enact or modify the given set of legislations and policies that are required to sustain and optimize pandemic preparedness, across all sectors and provide all the additional resource for national pandemic preparedness, response measure and capacity development On 14TH April, Prime Minister Mr. Narendra Modi prominently pronounced the role of local self governments to combat COVID-19. On 12TH MAY, he urged the people to be “vocal about local”. He ensured that this contagion can only be prevented by changing the attitudes and the behaviors of the human individuals.

The Directions of the Central Government and State Government thus have a strong role to enforce proper regulations and ensure good safety for all citizens and common man in the society within the area of the State. The directions are given through and under various departmental arms of the state being – Health, Non-Health Sector, Police, Revenue and General Administration. The measures taken by Government during this Pandemic are:-

- (1) Lockdown of society is stages and with restrictions and relaxations,



- (2) Social Distancing concept to be adopted with atleast 3 feet distance to be maintained between 2 individuals
- (3) Use of Face Masks
- (4) Sanitization and Frequent washing of Hands with Soap water with minimum 20 seconds to enable surface tension to remove possibility of Virus transmission
- (5) Frequent spraying in locality with Bleaching powder and solution
- (6) More deployment of cleaning staff
- (7) Deployment of Volunteers to enlist people and follow up their health status at doorstep.
- (8) Municipality/Corporation in coordination with Medical staff providing testing measure, checking basic health parameters of people.
- (9) Tracing of infected people and their contacts and test them and treat infected people
- 10) Passengers from abroad and in travel provided health check up and if any infected were found, then to take them for treatment.
- 11) Supply essential food grains to all
- 12) Provide food supply to needy
- 13) Charge Polluters and violators of norms
- 14) Regulation of market and vendors
- 15) Permit active participation of Individuals and NGOs to provide support to public at large with food, essentials, medicine etc.
- 16) Giving Directions to Hospitals to charge at not exceeding prescribed price and treat patients well
- 17) Giving Directions to Insurance Companies to consider COVID19 infection within present policy and entertain claims.
- 18) Giving Directions for continuation of essential services and deployment strength of staff by rotation at prescribed levels.
- 19) Prescription of Arogya Sethu Application software for all to monitor health status of individuals and for their personal knowledge of potent threat and infected people information.
- 20) Aged people were taken care and ensured by and large from venturing out.
- 21) Vehicle movements and of individuals restricted and permission in limited nature with issue for Pass from Competent authority was made.
- 22) Giving directions for protection of staff involve in monitoring and providing support role in society through the team of Doctors, Nurses, Sanitary Workers, Police, Revenue staff, etc. They were addressed with special name as COVID Warriors.
- 23) Passing the 2020 Ordinance to the 1897 Act and arming with special powers and protection to COVID Warriors and ensuring safety and recognition to them
- 24) Special service of extension by 1 year to current retiring staff.
- 25) Directions to permit online classes for students and liberal approach to education assessment and tests
- 26) Providing Cash subsidy to people.
- 27) E- Learning encouraged.
- 28) New directions to encourage Work- from –Home.
- 29) Directions to Banks to provide liberal credit.
- 30) Directions not to classify accounts as NPA and provide moratorium for repayment of loans.
- 31) Changes in Income Tax filing period.
- 32) Toll charges waiver.



33) Suggestions made to common man to take up personal initiatives to support neighbours and needy.

34) Courts and its procedures provided leniency.

35) Exemption of time under Limitation Act.

36) Banks advised to provide Mobile ATM's.

37) Directions to close places of worship and other places to prevent larger social gathering.

38) Directions on total.

39) Endeavour to produce vaccines and engaging ICMR.

40) Frequent Meetings of Centre and States and Government frequently in touch with people.

41) Travel restrictions and Passenger Domestic Air Travel was banned within the country from March 24th till

April 14th 2020 and which has been extended over the period.

42) International Passenger travel was banned till April 14th 2020 and this is extended periodically.

43) Special permission granted for transport of cargo and essential items and daily livelihood materials.

44) Sharamik Trains a stream of special train and Special busses to transport the dislocated migrant labourers

to reach back their native place.

45) PPE kit usage encouraged to prevent infection.

46) Government directed employers to provide salary assistance even though it was lockdown condition existed.

47) Centre gave funds to Sates for providing relief and States in turn provided funds to local bodies.

48) Frequent meetings of enforcement agencies and monitoring team to coordinate welfare activities.

49) Exemptions under scope of GST etc for essential services.

Many more further measures were initiated by State. We observe that till date the pandemic situation is largely controlled through State measures with remarkable co-operation of all the state governments etc. various Public servants and security forces have been enforcing lockdown in a strict and stringent manner. In this situation it is to be noted that local governments/bodies must be prominent at least in the Disaster Management Act, 2005. In this trying times, the Police force, Home Guards, Social Service Organisations, NGOs, Sanitary Workers, Administrative body officials, Revenue Officials, Private Individuals.

Role Rights and Responsibilities of Communities, Individuals and Families

Civil Society organization, individuals, families also have their own role in mitigating the effects of a pandemic outbreak. NGOs should involve along with Governmental groups or organizations to help whole communities to prepare and respond to a pandemic outbreak. Under civil society organizations, groups that have a close and a direct relationship with communities are often well placed to communicate accurate information, counter rumors, raise awareness and liaise with the government during an emergency. These groups must augment the efforts of organizations in other sectors, such as hospitals or clinics. It is important that all the individuals and families of households must take measures to ensure the access to accurate information, water, food and medicines.



Access to reliable information from sources such as WHO and local and national governments will be essential for families. Individuals, especially those who have recovered from a pandemic outbreak must consider a proper volunteering with an organized group to assist others in the community.

As a matter of right the individuals are entitled to better support from Government to control, prevent and treat pandemic diseases and a right for quality life. At the same time, each and every individual is bound by duty and obligation to follow. However there have been many instances of non-compliance and violations by individuals. Many individuals were found loitering and not maintaining social distance or responding to medical advice. Unwanted movers were charged and penalties imposed which accumulated to more than Rs.50Crore which could not be viewed as a good development as this only negates the Government efforts to contain the spread of disease. Similarly quarantine of visitors and the infected is to be seriously pursued. People are also found to be in grabbing mode the relief materials that come to be distributed thereby preventing the proper reach of same to all needy. Under PDS there are many instances of flawed supplies and duplicated procurement by beneficiaries and so supply flaws are seen.

The Market is ripe with hoarding traders and inflated pricing which is not being controlled and Individuals seek right of protection from this and Government has a sincere role to play and ensure equity.

Conclusion

The COVID 19 Pandemic has thrown a huge challenge to the whole world. The Governments by and large have put their best possible steps to improve the hygiene, health

care, awareness and prevention and control measures. Occasional excess by authorities and also unfortunate non-compliance of safety measures is seen from individuals. The Corporates bound by the burden have started to squeeze on its employees. The Viral infection as of many past Pandemics is still on upsurge and the news of some vaccine production is providing a glimmer of hope. The stage 3 community spread in India is slightly low compared to world statistics, may be due to herd immunity. The Economy is shambles with organizations being closed and employment being cut, which needs to be addressed and rectified soon. The lockdowns need to end soon and education, production, service activities should bounce back to improve the economic front.

Media need to be more sensible and corporations have also join force to rectify the situation. The basic necessities such as food, medical support, water, electricity etc must be provided and available in a regular manner and at affordable price so that people will not panic and urge for the things that are in demand and lead to a massive lose by getting affected to the infections.

The sole responsibility is with the government to open up and protect the people in each and every manner as of now people must also need to cooperate will the government to overcome this pandemic situation and same length people have to raise their levels and corporate ought to support their employees and stimulate economy. Tracing Testing and Treatment is a system practiced should continue. Irrespective of all precautions and severe lockdown there COVID19 infections alarmingly and sporadically spread all over.

As we all know pandemic is not new, the government by the sheer size of the population of our Nation would find it tough



in such situation so all the individual must be supportive and helpful in this period. At the same time we should remember that History has shown that many a Pandemic dies on its own more than medication and curative support. As Thomas Mockaitis the History Professor at DePaul University states “As to how the Plague ended, the best guess is that the majority of people in a Pandemic somehow survive and those who survive have immunity”

This Pandemic situation COVID19 has brought out global challenge and domestic difficulties and the State being responsible for Welfare of people and safety has to ensure proper measures to be implemented. At the same time the corporates should support their employees and more particularly each and every individual should strive to follow guidelines and also ensure for better hygiene and sanitization and better social living. The fear of the disease need not kill the system or because of worry and let all carry forward with Enthusiasm, Care and Caution.

FOOT NOTES

- 1) Code of Criminal Procedure is the main legislation on procedure for administration of substantive criminal law in India. It was enacted in 1973 and came into force on 1 April 1974.
- 2) WHO, International Health Regulations of 1969, amended in 1973 and 1981.
- 3) Thomas W. Grein et al., Rumors of Disease in the Global Village: Outbreak Verification 6:2 Emerging Infectious Diseases 97, 97 (Mar. –Apr. 2000).
- 4) The criteria listed here are unknown disease, potential for spread beyond national borders, serious health impact or unexpectedly high rates of illness or death,

potential for interference with international travel or trade, strength of national capacity to contain the outbreak, and suspected accidental or deliberate release.

- 5) Clinical Guidance on Identification and Evaluation of Possible SARS-CoV Disease among Persons Presenting with Community-Acquired Illness.

