



ARTICLE: COVID-19 AND PENAL LAWS IN INDIA

Coronavirus aka COVID-19 is the talk of the world now. The Pandemic has led the world to a crisis which none of us could have ever imagined. It has led to nationwide shut down and brought the economy of the countries to a halt. What made the situation even worse is the shortage of quality health-care systems equipped to treat a large number of affected populations. Owing to its highly communicable nature, COVID-19 has brought the countries of the world to envisage the measures which are necessary to prevent the spread of this virus. Consequently, the task of the government to strike a balance between the economy while maintaining the escalating number of COVID positive patients is unprecedented. Which is why the government is bound to put restrictions upon the people of the country in order to avert the rise in cases.

The Prime Minister of India, on the 24th of March, declared a nationwide lockdown for a period of 21 days requesting all the citizens to stay where they are and avoid stepping out. Therefore in times of uncertainties, it is imperative for every fellow citizen to be aware of the laws that play a role, the laws that can be invoked and what penal action they attract. The following are the laws that have come into picture during the pandemic of COVID-19 in India:-

THE DISASTER MANAGEMENT ACT, 2005

The lockdown in the whole country was imposed by the National Disaster Management Authority through an order dated 24.03.2020¹ by invoking the Disaster Management Act, 2020. These are the relevant sections of the act:-

Section 6(2)(i) of the DMA, 20015² as per which the National Authority may take such other measures for the prevention of disaster, or the mitigation, or preparedness and

¹ Circulars for Covid-19, Ministry of Home Affairs.

<https://www.mha.gov.in/notifications/circulars-covid-19>

² M.P. Ram Mohan, Jacob P. Alex , COVID-19 and the ambit of the Disaster Management Act, The Week, April 26, 2020 17:11 IST.



capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary.

Section 10(2)(1) of the DMA,2015 lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster.

The order included containment measures to be followed throughout the country during the lockdown, which in case of its violation attracts **Section 51-60 of the Disaster Management Act, 2005** which talks about the Punishment.

THE EPIDEMIC DISEASES ACT, 1897

The short act comprises only four sections in total. **Section 2** of the act talks about the Power of the Government to take special measures and prescribe regulations to prevent the outbreak of the disease.

Section 2(1) The State Government may take, require or empower any person to take such measures by public notice to prescribe the regulations to be temporarily observed by the public or by persons of any specific class as it shall deem necessary to prevent the outbreak.

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

Section 2(2)(b) the inspection 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 disease.

<https://www.theweek.in/news/india/2020/04/26/covid-19-and-the-ambit-of-the-disaster-management-act.html>



Section 2A of the act provides for the Powers of the Central Government. It states that if the central government is satisfied that any part or whole of India is visited or threatened by any outbreak of a disease or if the present laws aren't sufficient to prevent such an outbreak, the central government may take measures or prescribe regulations for inspection of any ship or vessel leaving or arriving in India, or such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.

Section 3 of the act talks about the penalty in case a person violates the provisions made under this act. If any person disobeys any order or regulations which have been made by the government under this act, that person is considered to have committed an offence that is punishable under Section 188 of the Indian Penal Code, 1860.

Section 4 : This section of the act gives Protection to the persons acting under Act. No suit or legal proceeding can lie against any person for anything done or was intended to be done in good faith under the act.

There has been an amendment made to this act in 2020 through an ordinance dated April 22, 2020. The amendment aims to include the following things:-

- 1A has been inserted which defines act of violence, healthcare service personnel, property
- In Section 2(2) the central government has the power to inspect any bus, trains, goods vehicle, ship, vessel or aircraft
- Section 2B inserted: No person shall indulge in any act of violence against a healthcare service personnel and cause any damage or loss to the property during an epidemic.
- Anyone who commits or abets to commit violence against a healthcare personnel, will be liable for punishment ranging from 3 months to 5 years, and in serious cases 6 months to 7 years, with a penalty ranging from Fifty thousand to 2 lakhs and in serious cases 1 lakh to 5 lakhs. Such an investigation is to be conducted by a senior inspector within 30 days of time



and the court is to decide such a case in one year of time. The onus lies on the person accused of such an act³.

THE ESSENTIAL COMMODITIES ACT, 1955

As per Section 2A, the essential commodities shall mean the commodities mentioned in the schedule of this act. The government of India through an order date 13.03.2020⁴, ordered for the inclusion of masks, surgical masks, sanitizers till 30th of June, 2020. The manufacturing and transportation in the country was allowed for the purposes of essential commodities only⁵.

INDIAN PENAL CODE, 1860

Section 188

This section deals with the disobedience to order promulgated by a public servant. Anyone who knowingly disobeys a direction stipulated by an order promulgated by a public servant to abstain from a certain act or to take certain order with certain property under his possession or management and if such disobedience causes or tends to cause obstruction, injury or annoyance or risk of obstruction, injury or annoyance to any person lawfully employed shall be liable to an imprisonment which may extend one month or with fine, or with both⁶. If such a disobedience causes or tends to cause danger to human life, health or

³ The Epidemic Diseases (Amendment) Ordinance, 2020.

<https://www.prsindia.org/billtrack/epidemic-diseases-amendment-ordinance-2020>

⁴ *The Gazette of India*.

<https://consumeraffairs.nic.in/sites/default/files/file-uploads/essential-commodities-order/1087.pdf>

⁵ *Amlegals, Covid-19 Outbreak how about essential Commodities?-Legal intelligence Series - Covid 19 | XII, Mondaq, May 05, 2020.*

<https://www.mondaq.com/india/operational-impacts-and-strategy/928382/covid-19-outbreak-how-about-essential-commodities>

⁶ Covid-19: Govt warns of action under IPC for violating quarantine, March 25, 2020.

<https://economictimes.indiatimes.com/news/politics-and-nation/covid-19-govt-warns-of-action-under-ipc-for-violating-quarantine/articleshow/74812467.cms>



safety, riots or affray, then the person will be liable for imprisonment which may extend up to 6 months or with fine up to thousand rupees or with both. It is a cognizable and a bailable offence by virtue of the first schedule of CrPC, 1973.

Section 269

Chapter XIV of the IPC includes Offences affecting Public Health, Safety etc. Section 269 pertains to a negligent act done by anyone which he is aware of or has reason to believe that such an act is likely to spread infection of disease dangerous to life. It says that any person who unlawfully or negligibly does any act which is likely to spread the disease will be liable for an imprisonment which may extend up to 6 months or fine or with both. It is a cognizable offence and is Bailable. It is a non-compoundable offence and is triable by any magistrate.

Section 270

This section deals with a malignant act done by anyone who knows or has a reason to believe that such an act is likely to cause the spread infection of disease dangerous to life, and is liable for imprisonment which may extend up to 2 years, or with fine, or with both. It is a Cognizable Offence and is Bailable. It is a non-Compoundable offence and is triable by any magistrate.

Section 271

This section of the IPC deals with Disobedience to Quarantine Rule by anyone knowingly, which is punishable with imprisonment which may extend for a period of six months, or with fine, or with both.

CODE OF CRIMINAL PROCEDURE:

Section 144

This is a very important section that comes into play in cases of riots or any kind of emergency. The section empowers the District Magistrate, Sub-Divisional Magistrate or an



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Executive Magistrate to issue an order in urgent cases of nuisance or apprehended danger for prevention or speedy remedy direct any individual person, persons residing in a particular area or general public to abstain from a certain act or take certain orders with respect to any certain properties. This section prevents a public gathering. Many states have been imposing section 144 during the pandemic.

CONCLUSION

Whether our laws were adequate to deal with the pandemic? Well India has distinct laws to tackle the situation of COVID-19 but at the same time the government has realized that these laws are not enough to deal with such unprecedented times. Consequently, the government during this pandemic introduced new legal reforms via. ordinances and amendments. The law for the prevention of violence against the healthcare personnel, inclusion of masks and sanitizers in the list of essential commodities, The Epidemic Diseases (Amendment) Ordinance, 2020 are among the few that were enacted during the pandemic.

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