

# **Quarantine Law Enforcement in India**

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## **Introduction**

Quarantine is a Greek word that comes from *quarantena*, which means “forty days”, used in the fourteenth and fifteenth-century Venetian language. It designated the period where all boats were required to be detached before travellers and crew could go aground during the Black death plague pestilence. Corona cases are on the rise in India and many people are trying to escape quarantine. Quarantine is defined as the separation of people who may be ill or could be exposed to infection and restriction on their movement and activities. It is done with those people who have attended large people gatherings or people with travel history to affected areas. There is a limitation on the motion of goods and individuals, which is planned to forestall the blow-out of disease. It is frequently used in association with ailment and diseases, involving the forestalling of the movement of the individuals who may have been exposed to a transmittable infection, even if they do not have an affirmed clinical diagnosis. The suggested time of isolation for the COVID-19 is 14 days from the beginning of contact with a suspected Coronavirus patient. In India if anyone is quarantined, a stamp is made on the hand of that person. This is done to identify those who are either infected or have chances of being infected. Home isolation is done after the detection of a movement of a consequential/inconsequential suspect instance of COVID-19 and it'll be accompanied by rapid isolation of such cases in specific health facilities and a line list of all contracts of such cases. In India, the state and central governments are empowered to order quarantine under the Epidemic Diseases Act, 1987. This Act came into being after the Bombay bubonic plague epidemic of 1896. The violation of the provisions of this Act is a punishable offence. The punishment for disobey is mentioned under Section 188 of the Indian Penal Code.<sup>1</sup>

## **Difference between Isolation and Quarantine**

Isolation is used to separate the sick people, who have a communicable ailment, from the individuals who are healthy. Detachment limits the movement of sick people to help stop the

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<sup>1</sup> Neetu Chandra Sharma, *Persons violating home quarantine rules will be punished*, LIVE MINT (Mar. 25, 2020), <https://www.livemint.com/news/india/persons-violating-home-quarantine-rules-will-be-punished-govt-11585144680036.html>.

spread of infectious disease. In some instances, hospitals use confinement for patients with tuberculosis. On the other hand, quarantine is used to isolate and limit the movement of people, who may have been exposed to a transferable ailment, to check whether they become ill. These people may have come in contact with the disease and don't even know it, or they may be suffering from the disease, but don't have symptoms. Isolation can likewise help limit the spread of transferable disease.<sup>2</sup>

### **Instruction of Ministry of Health and Family Welfare for Home Quarantine**

- Remain in a well ventilated single-room, ideally with a connected/separate washroom.
- In the event that another relative needs to remain in a similar room, it's preferable to keep up a distance of at least 1 meter between the two.
- Necessary to avoid old individuals, pregnant ladies, kids, and people with co-morbidities to mingle with other family members inside the family.
- Confine his/her movement inside the home only.
- By no means go to any social/religious get-together, for example, wedding, condolences and so forth.<sup>3</sup>

### **Why is it a problem in India?**

Home quarantines are not particularly easy to implement, because a huge workforce is required. To keep someone in quarantine, the local workers have to stamp a seal on the hand of one who is being quarantined. A paper has to be pasted on the front gate of the house, which informs other people that a person is in quarantine here. As in India, people are very social in nature, so it is very difficult to keep a check on the people, who are inside the home and can violate the regulation prescribed for quarantine. Quarantine requires adequate infrastructure so that people can safely quarantine themselves. However, in India, a proper quarantine centre is not there and it is very difficult to create quarantine centres on short notice. Many western economies are capable of providing for their people during such a crisis.<sup>4</sup> However, as India has the 2<sup>nd</sup> largest population, it is very difficult to keep many people in such places with all the techniques like ventilators, masks, proper beds and proper air conditions. In India, most

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<sup>2</sup> *Quarantine and Isolation*, CENTRE FOR DISEASE CONTROL AND PREVENTION (Sep. 29, 2017), <https://www.cdc.gov/quarantine/index.html>.

<sup>3</sup> Guidelines for home quarantine, GOVERNMENT OF INDIA MINISTRY OF HEALTH & FAMILY WELFARE <https://www.mohfw.gov.in/pdf/Guidelinesforhomequarantine.pdf>.

<sup>4</sup> Aviral Agarwal, *Legal Aid in India Amid the COVID-19 Lockdown*, JURIST (May 2, 2020) <https://www.jurist.org/commentary/2020/05/agrawal-mishra-india-legalaid/#>.

homes are just not big enough for people to safely quarantine themselves or isolate members who are exhibiting symptoms or have tested positive.<sup>5</sup>

### **Epidemic Disease Act, 1897**

In the time of COVID-19, commercial transactions and lifestyle of people of the entire country are halted. To deal with this problem, the government of India took important steps, and due to that, this Act came into limelight. This Act is a very compact legislation that has only 4 sections but it plays a key role during the time of the epidemic. This act of colonial-era once again came to rescue us. The Epidemic Act was enacted in 1897 due to the mass spread of bubonic plague outbreak in Bombay. This plague spread through rats and was one of the worst plagues in Indian history that took hundreds of lives in Bombay. This Act contains 4 sections and each section talks about different things related to this Act.

- Section 1 of this Act talks about the scope of the act as well as its title.
- Section 2 of this Act gives power to the state and the central government to take steps in order to prevent disease transmission from one person to another and also empowers the government to enforce laws that are to be followed by everyone.
- Section 2A gives power to the Central government to impose regulations and inspect any person leaving or arriving in India. It also gives power to the government to put regulation on ships or vessels leaving or arriving in India.
- Section 3 states the penalty or punishment if anyone disobeys any provision issued by the Act, in accordance with Section 188 of IPC. Section 188 of the Indian Penal Code imposes punishment on those who disobey the order of any public servant. If this disobedience causes any danger to someone's life, obstruction, annoyance, then he/she who causes this will be held liable and is punishable for imprisonment for 6 months or fine up to 1000 or both.
- Section 4 says that no one shall be punished if someone does anything in good faith under this Act.

The Epidemic Act also empowers the State and Central government to exercise their power, and force workers of any private industry, offices, and other workplaces to stay at home at the

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<sup>5</sup> Atul Thakur, *Difficulties of Quarantine In India*, TIMES OF INDIA (Apr. 21, 2020) <https://timesofindia.indiatimes.com/india/why-home-quarantine-is-difficult-in-india/articleshow/74704620.cms>.

time whenever the government wishes them to keep at home. All the workers or employees will be treated as “on duty” even when they are at home during this time.<sup>6</sup>

### **Disaster Management Act**

The object and the purpose of the Disaster Management Act is to manage the disaster, including the preparation of mitigation strategies, etc. We all think disaster means cyclone, earthquake, etc., but in the Disaster Management Act under Section 2(d), the definition of “disaster” is any mishap, catastrophe, calamity, or any grave occurrence in an area. This occurrence may be raised naturally or over man-made cause. To address the present pestilence flare-up, the local government has incorporated the COVID-19 outbreak as a "Notified Disaster" or as a "critical condition or pandemic circumstance".<sup>7</sup>

According to this Act, the government can use the appropriate funds to provide relief to victims. Under the Disaster Management Act, 2005, the Central government has the power to impose a nationwide lockdown. Various government authorities have invoked their respective powers under the Disaster Management Act, 2005 to deal with the novel coronavirus (COVID-19) outbreak in the country. We all know that the Coronavirus is getting worse day by day in the whole world. Various powers as exercised by the Home Secretary, by being the Chairman of the National Executive Committee under Section 10 of the Disaster Management Act, 2005 have been delegated to the Ministry of Health and Family welfare. This delegation would help to enhance the preparedness and containment of novel coronaviruses in the country.

Section 10 of the DM Act evaluates the preparedness at all governmental levels for the purpose of responding to any threatening situation or disaster and gives directions, where necessary, for enhancing such preparedness. It also lays down guidelines for or gives directions to, the concerned Ministries or Department of the Government of India, the State Government, and the State Authorities regarding measures to be taken by them in response to any threatening disastrous situation. Thus, it majorly monitors and implements the national plan and the plan prepared by the ministries or department of the Central Government and gives superintendence power to the officer executing plans.

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<sup>6</sup> The Epidemic Disease Act, 1897, No. 3, Acts of Parliament, 1897 (India).

<sup>7</sup> *Article on India declares Covid-19 a 'Notified Disaster'*, THE ECONOMICS TIMES (Mar. 14, 2020), <https://economictimes.indiatimes.com/news/politics-and-nation/india-declares-covid-19-a-notified-disaster/articleshow/74631611.cms?from=mdr>.

## **Quarantine Law under Indian Penal Code, 1860**

The first case of COVID-19 in India was reported on 30 January 2020. After the spread of this virus in India, the Government of India, in the initial stage, took precautionary measures by imposing lockdown in whole India for 21 days from 21st March 2020 and this was the first time in the history of Independent India that our country faced countrywide lockdown. This lockdown was imposed to prevent the community spread of this virus because in a country like India, it is very difficult to control communicable diseases, so to prevent this, authorities took stringent measures to deal with this situation.

Quarantine is a situation in which people are kept in isolation to prevent the communicable diseases from spreading further. Corona is a highly infectious disease, and that is the reason why it has spread like a fire in the forest. However, we have seen various cases in which many people are not properly following the rules and regulations imposed by the government to prevent the spread of this disease. We have seen people avoiding medical screening at airports and railway stations, running away from quarantine centres, hiding their travel history, and not following the rules prescribed by the authorities for self-isolation.

In India, violating the quarantine rules is punishable under Section 271 of IPC, 1860. Failure to take precautions required, despite being aware of the possibility of the spread of such infection or disease is punishable under Section 269 and 270 of the Indian Penal Code. Section 269 of Indian Penal Code talks about the punishment of those people who unlawfully or negligently, do any act which they know or have a reason to know, likely to spread any infectious disease which is very dangerous to someone's life, shall be punished with imprisonment for 6 months or fine. Under Section 270 of the Indian Penal Code, whoever with bad intention does any act, which he/she knows or has reason to believe to be, likely to spread the communicable disease dangerous to life.<sup>8</sup>

Bad intention or Malignancy, is termed as an act in which someone coughs or sneezes in open, without covering his/her mouth and nose, not wearing masks in public places, not following the regulation of isolation, roaming around on the streets in groups, spitting in open. All of these acts are punishable under Section 270 of Indian Penal Code.<sup>9</sup>

## **Conclusion**

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<sup>8</sup> India Penal Code, Act No. 45 of 1860, INDIA CODE (1993), § 269.

<sup>9</sup>*Id.*, at § 270.

To deal with this type of situation as a whole or in the world's second most populated country like India, it is too difficult to prevent the spread to this type of communicable disease. So to prevent this virus from spreading further, the Indian Government took major steps by taking strict action against those who don't comply with rules and regulations imposed by the government; like, if someone is suffering from the Corona Virus, he/she should be either be admitted to hospital in isolation or be quarantined at home.<sup>10</sup> Different acts like the Disaster Management Act, 2005, and Epidemic Disease Act, 1897 empower the government to take necessary action to control the disease, and also empowers the Government to isolate any person, who came in contact with Coronavirus. If someone is quarantined or isolated at home or any other place, then they will not be able to exercise their basic human rights like they can't go out without any permission, patients' mobile is also being tracked by the government so that no-one can violate the rules of Quarantine.

As the government keeps a track record of the Corona patient, there is a chance of getting the sensitive information leaked. To keep track of the disaster and to take necessary steps, a National Executive Committee is constituted under the Disaster Management Act, 2005. A National Executive Committee is constituted under Section 8 of the Disaster Management Act, 2005,<sup>11</sup> to assist the National Disaster Management Authority in the performance of its functions. NEC has been given the responsibility to act as the coordinating and monitoring body for disaster management, to prepare a National Plan, monitor implementation of National Policy, etc. The Disaster Management Act, 2005 gives power to the district administration under Section 33 and 34 to deal with disaster-related situations. Under Section 33 and 34,<sup>12</sup> the district authorities may opt for requisition powers for any officer or any department at the district level or any local authority to take measures for prevention or mitigation of disaster or to effectively respond to it, and such officer or department is bound to carry out such order.<sup>13</sup> This step will help to create awareness among the public regarding the medical supply of masks, injections, and medicines, etc.

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<sup>10</sup> WHO *Guidance on Human Rights and Involuntary Detention for XDR-TB Control*, WORLD HEALTH ORGANIZATION (Jan. 24, 2007), [http://www.who.int/tb/xdr/involuntary\\_treatment/en/index.html](http://www.who.int/tb/xdr/involuntary_treatment/en/index.html).

<sup>11</sup> Disaster Management Act, 2005, No. 53, Acts of Parliament, 2005 (India), § 8.

<sup>12</sup> *Id.*, § 33.

<sup>13</sup> Chetan Chauhan, *Covid-19: Disaster Act invoked for the 1st time in India*, HINDUSTAN TIMES (Mar. 25, 2020), <https://www.hindustantimes.com/india-news/covid-19-disaster-act-invoked-for-the-1st-time-in-india/story-EN3YGrEuxhnl6EzqlreWM.html>.

