

## **COVID-19: A Bizarre Pandemic that has knocked the Mankind**

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### **Introduction**

It has been 5-6 months; we have seen drift in the happenings around the world. Towards the end of 2019, there was an Iran-US crisis, even India saw nation-wide protest against the Citizenship Amendment Act, 2019. But this changed when in Wuhan, a new virus named CORONA attracted all the attention, which endangered the lives of people. It spread gradually from China to the rest of the world, and today has doomed people in every nation. Many nations have initiated stringent measures to control the transmission, which has resulted in a violation of the rights that people enjoy, in the form of extremities by the administration. Violation of human rights by fellow beings also finds a mention here, and also, laws for protection from the anti-social elements. The following article aims to shed light on issues related to the virus for a better understanding of the situation and analysing its aftermath.

### **Initial Stage of Danger and Preparations**

When the first case of the corona virus in India came up from Kerala, on January 30, 2020 a plan of action was made to do away with the virus. Considering the initial stage, people in many countries took it lightly and ignored the symptoms by confusing them with common flu. But today, it has taken its worst form as it is in its third stage of community transmission. It can be seen very clearly that it was negligent on part of many countries to not take measures to stop the transmission. At the same time, India took precautions like curfew in the region where the number of cases was comparatively high. Based on the travel history of people coming from China and other Western nations, their screening was done on the airports itself so that in case they suffered from fever, common cold, or cough, they could be sent to hospital for a proper check-up and be quarantined. Other safeguards adopted by the people were keeping a distance from others while talking or meeting, washing hands and sanitizing them, not coming in contact with the infected person, not going to crowded areas, being at home, etc. Hence, *social distancing* was seen as a tool to control the spread of the virus.

When the figures for patients began to increase from the mid of March, all the schools and

universities were closed till 31 March 2020 with immediate effect. From 25 March 2020, the lockdown was imposed for 21 days till 14 April 2020. It was extended further till 3 May 2020 and again till 17 May 2020. A Janata Curfew was also enforced on 22 March 2020, Sunday not to let people out of their houses. All these safety measures have been successful to the extent that India is in a better position as compared to other nations where the number of cases has touched lakhs.

### **Laws: Protection Against Upheaval**

The concern for public health has been an exclusive part of the State List (Seventh Schedule of the Constitution), where the Centre has limited power as it can only suggest measures to the State for taking rational steps for the welfare of the public health. And so, ideally, it becomes the discretion of the state government to obey the centre in this case. This widens the federal gap between the centre and the state in a pandemic situation. Meanwhile, on 11 March 2020, Section 2 of the *Epidemic Diseases Act, 1897*, the colonial law (to stop the bubonic plague outbreak in Bombay at that time), governing health care emergencies was invoked in all the states and union territories of India, which gives special powers to the states to ban any public gatherings, stop schools and institutions to function and also adopt feasibility of work from home measure. As stated in Section 2A of the Act, the central government can only prescribe rules for inspection of ships and vessels leaving or arriving at the ports in the territory of India.

This old law is an instance of a bitter irony and at the same time is controversial as some say that it is inconsistent with the present situation to fight corona because a disease spreading in the whole country has to be tackled by people under one umbrella i.e., the Centre Government. There was also some effort made to repeal the law; a Public Health (Prevention, Control, and Management of Epidemic, Bio-Terrorism and Disasters) Bill that had been drafted in 2017, intended to replace the Epidemics Act of 1897, is yet to be tabled in the Parliament.<sup>1</sup> But the states showed disapproving reaction as this was like an attack on their right given to them by the Constitution.

On 23 and 24 March, chief ministers of many states declared lockdown in the metro cities like Delhi, Bengaluru, Mumbai, Chennai, and Kolkata. A country-wide national lockdown was announced by Prime Minister Narendra Modi under Section 6(2)(i) of the *Disaster*

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<sup>1</sup> Manish Tiwari, *India's fight against health emergencies: In search of a legal architecture*, ORF ONLINE (May 5, 2020), <https://www.google.com/amp/s/www.orfonline.org/research/indias-fight-against-health-emergencies-in-search-of-a-legal-architecture-63884/>.

*Management Act, 2005* which later got an extension on demand by the states. This Act declared coronavirus disease as a ‘notified disaster’ and a critical medical situation and the Centre, in coordination with the Home Ministry and the Health Ministry, started taking anti-COVID measures. The National Disaster Management Act, 2005 has been invoked by the centre to bring the states under its control to fight the pandemic, which is posing a threat to the health of people, and to access the funds, i.e., the National Disaster Response Fund (NDRF) to provide relief to the sufferers. This Act gives the regulations for punishment and anyone violating “containment measures” would be punished under sections 51-60 of the Act.<sup>2</sup>

There are a plethora of other laws that have been enacted by different states at different times when they were hit by a health emergency, such as, Madras Public Health Act, Cochin Public Health Act, Goa, Daman, and Diu Public Health Act, West Bengal Epidemic Disease COVID 19 Regulations, Delhi Coronavirus Regulations, and some others, aimed at fostering public health.

When the curfew was observed by the people on 22 March 2020, it was a clear indication that it would get transformed into some restriction which will not let the people come out of their houses and collect in public. Police personnel were deployed to make people follow the curfew and the lockdown strictly. This process was somewhere criticized as the public did not like the behaviour of the police who used to beat the people coming out on roads or even arbitrarily punished them; which will be discussed in the later course. However, this does not obviate the fact that roaming out when movement is restricted without any reasonable cause (like medical help and purchasing household things) is not acceptable in any sense when there is an outbreak of a pandemic. Now, the legal aspect and the laws which govern people in such a pandemic are very significant for us to analyse. Strict action can be taken against people who disobey the regulations made by the government under the Epidemic Diseases Act 1897, which shall be deemed to be an offense punishable under Section 188 of the Indian Penal Code, 1860 (Section 3 of the Act).

National Security Act, 1980 (NSA) is a stringent act which lays down the provisions of preventive detention against anyone who poses a threat to the national security. It can also be invoked by either the centre or the state, enabling the government to maintain public order

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<sup>2</sup> Sunil Prabhu, *Centre Invokes National Disaster Management Act, Takes Control Of Coronavirus Battle In States*, NDTV, (Mar. 25, 2020), <https://www.google.com/amp/s/www.ndtn.com/india-news/coronavirus-centre-invokes-national-disaster-management-act-takes-control-of-coronavirus-battle-in-stat-2200288%3famp=1&akamai-rum=off>.

and cooperation among authorities or ensure the regular supply of goods and services essential to the community. Today, anti-social elements who often assault the policemen on duty can invite the action under this act. This has been invoked in Indore against four persons who instigated the residents of a locality to pelt stones and chase away health workers.<sup>3</sup> While six members of Tablighi Jamaat have been booked under NSA for misbehaving with the health staff, the Yogi government in Uttar Pradesh has warned that anyone who attacks the cops will be booked under the NSA.<sup>4</sup>

There are other provisions in the IPC as well, that help maintain peace and order during these difficult times; S.269- Negligent act likely to spread infection of disease dangerous to life with jail of 6 months or fine or both; S.270- Malignant act likely to spread infection of disease dangerous to life with jail of 2 years or fine or both; S.271- Disobedience to quarantine rule with an imprisonment of 6 months or fine or both.

The different legal provisions given in the Indian Constitution also direct a way towards tackling such a situation and have an impact on people's lives on a large scale. The President can invoke Article 356 of the Constitution if the state government disobeys the directives and the decisions of the centre. Article 256 also empowers the state administration to ensure compliance with the laws made by the Parliament.

### **Constitutional Test**

The laws formulated by the Parliament years ago are still effective due to the far-sightedness of our constitution-makers. Also, they had left some gap for the future leaders to fill them up accordingly by making amendments in the law book as per the need of the hour. Any bill, which is introduced and passed in the Parliament, goes to the President for his assent, and then becomes an Act or law. It is necessary that the law is within the constitutional boundaries and does not in any way be violative of people's rights or constitutional provisions. While analysing whether the lockdown or curfew order by the centre constitutionally is valid, the major issue to be dealt is with respect to the constitutional scheme of division of power between the government at the apex and the state.

Some people are seen condemning the government for its nationwide lockdown measure due to economic losses but this step was a necessity to control the exponential growth in the

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<sup>3</sup> *National Security Act, 1980*, DRISHTI IAS, (Apr. 4 2020), <https://www.drishtias.com/daily-updates/daily-news-analysis/national-security-act-1980>.

<sup>4</sup> *National Security Act: How Coronavirus Outbreak in India Brought About a Security Emergency*, INDIA.COM (Apr. 04, 2020), <https://www.india.com/news/india/national-security-act-how-coronavirus-outbreak-in-india-brought-about-a-security-emergency-3989930/amp/>.

number of cases as stated by the Centre. It has been highly praised by the experts and epidemiologists who think that had the lockdown not been imposed, the number of cases would have been several times higher than what they are at present. Article 254 of the Constitution states the ‘doctrine of repugnancy’, where if laws made by the state government clash with those made by the centre in respect of the concurrent list (seventh schedule of the constitution), the central law will prevail. The centre only has powers over preventing the spread of diseases from one state to another as given in the Entry 29 of the concurrent list,<sup>5</sup> and this is with respect to highly infectious diseases. Given the present situation of the virus in a country with a huge population, the central government has rightly imposed a lockdown. Moreover, section 72 of the DMA, 2005, provides that the provisions of the Act will have an overriding effect on all the laws, to the extent that they are inconsistent.

### **Loopholes: Crime and Violation**

Taking into consideration the rights of the people, it can be said that they have been complied with, and at the same time been violated by the fellow people or the authorities. Lockdown refers to a state of isolation or restricted access. It means not coming out of the house in any condition and whatever necessity is required, that will be provided at one’s home itself. But then, some people violate this lockdown and with no valid reason, move out of their houses. The police department is strictly ordered to make people follow the lockdown in every state and city, for their own well-being, so that the healthy people do not get infected at least. The people, who unnecessarily go out in public despite restrictions, should be rightfully punished by the authority.

However, it is also opined that the police are using arbitrary powers to stop the mass movement like the use of excessive and brutal force. The central and the state machinery is built up in such a way that the deeds of the public servants are deemed to be the deeds of the government itself. Hence, the government is being held responsible for the hostilities and the extremities on the people being carried out during lockdown. But at the same time, is it correct on the part of the people, to break the rule and disobey the law? To mitigate this disobedience, the police have to be cruel after all they are out so that the public is safe in their houses. According to people, this is insensitive on the part of the police to brutally beat those who cannot find a place to live, to punish those who have a genuine reason to come out. On one

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<sup>5</sup> Kevin James, *Covid-19 and the Need for Clear Centre and State Roles*, VIDHI LEGAL POLICY, (Apr.3, 2020), <https://www.google.com/amp/s/vidhilegalpolicy.in/2020/04/03/covid-19-and-the-need-for-clear-centre-state-roles/amp/>.

hand, police officials are supplying food and medication to the marginalized but on the other hand they only beat them (to death) with sticks. This is a clear situation of violation of human rights and misusing power given to protect the masses. As urged by the Human Rights Watch director, Meenakshi Ganguly, "the Indian government's responsibility to protect its people from the outbreak should not come at the cost of human rights violation." She also alleged "police actions to punish those violating orders have reportedly resulted in abuses against people in need."<sup>6</sup>

There are international organizations too which have urged the Indian government to protect the human rights of the citizens under international human rights law, like the right to health by providing food and medicines to those who cannot afford, right to free movement so that the migrant workers can get back to their families (this right also comes with certain reasonable restrictions), protection of health workers who are fighting on the frontline by providing them proper personal protection equipment. Human rights are not simply a luxury that is to be protected once the threat simmers down. In fact, upholding human rights can ensure better implementation and enforcement because when people trust the Government and feel safe, they are more likely to cooperate.<sup>7</sup>

The important step taken by the government is to clear the Ordinance bringing stricter punishment on violence against the medical staff. The Union cabinet has amended the Epidemic Diseases Act, 1897 through an ordinance to ensure the safety of health workers at a time when there has been a spate of attacks on them.<sup>8</sup> This development makes violence against medical staff a cognizable and non-bailable offense with a punishment stretching from 3 months to 5 years and a fine of Rs. 50,000 to Rs. 2 lakhs; whereas in severe cases, a punishment of 6 months to 7 years and fine of Rs. 1 lakh to Rs. 5 lakhs. This step was taken when the patients who did not let doctors to check them and take their samples and pelted stones on the health workers. Even the medical fraternity decided to protest against this ferocity and organize White Alert on 22 April 2020. On 23 April 2020, Black Day was going to be declared had this Ordinance not come into existence. People need to understand that the

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<sup>6</sup> PTI, *Coronavirus Lockdown/ Human Rights bodies ask police to ensure marginalised are not mistreated*, THE HINDU, (Mar. 28, 2020), <https://www.google.com/amp/s/www.thehindu.com/news/national/coronavirus-lockdown-human-rights-bodies-ask-police-to-ensure-marginalised-are-not-mistreated/article31194005.ece/amp>.

<sup>7</sup> Nisha Gupta & Udaiveer Ahlawat, *India's battle against Covid-19: The lockdown of human rights*, VOELKERRECHTS BLOG (Apr. 20, 2020), <https://voelkerrechtsblog.org/indias-battle-against-covid-19/>.

<sup>8</sup> Garima, *Govt Clears Ordinance On Attack On Doctors, Amends Epidemic Act To Bring 7 Years Jail For Assaulting Medicos*, MEDICAL DIALOGUES (Apr. 22, 2020), <https://medicdialogues.in/news/health/government-policies/govt-clears-ordinance-on-attack-on-doctors-amends-epidemic-act-to-bring-7-years-jail-for-assaulting-medicos-65086>.

doctors, nurses, paramedical staff, and other health workers are discharging their duty towards the nation by working tirelessly for the people only, and these instances of violence depict the cruel side of those who should be highly indebted to them.

Not only are the human rights of the health staff and the policemen at stake but also the ones confined in their houses are suffering from cruelty. There has been a drop as well as a gain in fatalities in homes and outside. With all public gatherings and meetings banned, the crime rates have shown a significant fall since March as compared to the figures for the same month, last year. Taking a look at the state-wise numbers, murder cases in Kerala have declined by 40%; rape cases by 70%, plus, there has been 100% fall in the cases of violence against women and children. The number of road accidents has also reduced to 105 in the lockdown as opposed to 1787 accidents in 2019.<sup>9</sup> In Assam and Tripura, people are obediently following the nationwide lockdown and no one even in night dares to come out till the danger is done away with. In Karnataka and Delhi, the crimes have been cut down by half although petty crimes like theft still happen. In the national capital, the no. of crimes has come down to 1890 in 2020 from 3416 in the previous year.<sup>10</sup>

However, the other side of the coin shows that at the same time, there has been an increase in cybercrimes. The use of apps like Zoom for children to study online and a platform of meeting has been responsible for data breach of lakhs of people around the world. The cases of domestic violence seem to be increasing as women are subjected to verbal, physical and mental torture by the family, especially the husband. Even if they try to move out they cannot, due to lack of transportation and if they report the crime, they are beaten black and blue. In India, the first signs of the problem appeared in the data provided by the National Commission of Women (NCW) in mid-April, which suggested an almost 100% increase in domestic violence during the lockdown.<sup>11</sup>

## Conclusion

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<sup>9</sup> Vishnu Verma and others, *Covid-19 lockdown has some unintended gains: Fall in crime rate, fatalities on roads, suicides*, INDIAN EXPRESS (Apr. 30, 2020), <https://www.google.com/amp/s/indianexpress.com/article/india/coronavirus-covid-19-crime-rate-road-accidents-suicides-6386519/lite>.

<sup>10</sup> Pretika Khanna & Shaswati Das, *Crime rate plunges amid lockdown, but domestic abuse cases may go up*, (Apr. 14, 2020), LIVE MINT, <https://www.google.com/apm/s/www.livwmint.com/news/india/covid-19-stay-at-home-reduces-crime-rate-but-fear-of-domestic-violence-rises/amp-11586746861558.html>.

<sup>11</sup> Shemin Joy, *Coronavirus Crisis: No lockdown for domestic violence*, (Apr. 26, 2020), DECCAN HERALD, <https://www.deccanherald.com/specials/insight/coronavirus-crisis-no-lockdown-for-domestic-violence-829941.html>.

There is a clear picture before the nations that this pandemic has posed a great challenge to the governments worldwide and is surely not going to spare anyone. Nations have seen lakhs of people dying and the governments are trying their best to mitigate it. However, the way to success is far ahead than expected. If this is the present situation, the future will be even worse because the countries will have to restore the lives of many. At present, many workers have become jobless; the poor cannot access food; the homeless have to face the violence of the officers, and farmers are not getting the right price for their crops. The economic condition of many nations has suffered a huge loss due to lockdown. Even the superpower, the United States of America, has been shaken as it has lost some 20.5 million jobs in April. For the first time in history, the US oil prices have turned negative. Be it industrial sector, tourism, trade, or entertainment, every part of the economy has been hit hard by the virus. The recovery will be even more bitter. According to the International Monetary Fund (IMF) it will only be a partial recovery in 2021 and the cumulative loss to global GDP over 2020 and 2021 from the pandemic crisis could be around 9 trillion dollars. The state of crisis can get worse in the second half of the year if the number of cases does not recede. This condition of the world economy is somehow similar to the Great Economic Depression.

The key to not get affected by the virus is to just be at home and follow social distancing. People have to understand that this is the right time to introspect their actions and rectify them and also should think about those who are not able to meet their families. Pelting stones on them and beating them to death will not help fight the virus but cooperating and following the rules can. It is the time when people need to realize that they are too close yet too far. Stay home, stay safe with one thought “we shall overcome this”.