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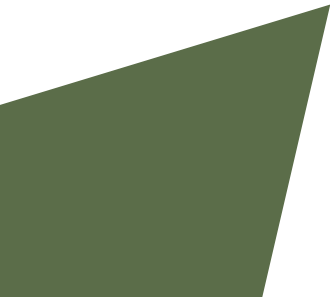
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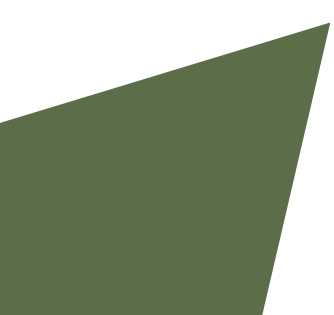
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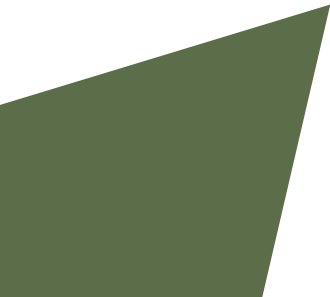
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**LEGALITIES AND LEGAL IMPLICATION OF EPIDEMIC DISEASES ACT
IMPOSED IN INDIA 2020**

Vanshika Kasturi

“Without effective human intervention, epidemics and pandemics typically end only when the virus or bacteria has infected every available host and all have either died or become immune to the disease”.

- Alan Huffman

An *epidemic* ailment is one “affecting many individuals at the same time, and disseminating from person to person in a locality where the infection is not enduringly prevalent”. *Epidemic* is normally used all on its own as a noun, meaning “a passing prevalence of an illness. Emblematically, epidemic is “a swift spread or upsurge in the happening of something,” Generally with an adverse or amusing connotation: An epidemic of urban renewal was affecting low-income groups of people or the hipster look gave way to an epidemic of 1990s fashion. Equated to an *epidemic* syndrome, a *pandemic* syndrome is an *epidemic* that has spread over an enormous area, that is, its “widespread throughout a whole country, continent, or the whole world.

ICTV declared “severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)” as the name of the new virus on 11 February 2020. This name was selected because the virus is genetically related to the coronavirus responsible for the SARS outbreak of 2003. While compared, the two viruses are different so WHO announced “COVID-19” as the name of this new disease on 11 February 2020.

At the outset a Sonnet by Abhijit Naskar deserves a mention as it reflects the mindset of the people during this outbreak.

The Pandemic Sonnet

This isn't the first time you've come to haunt us,
And it won't be the last either.
You thought you could break the species,
But all you did is bring us together.
You brought the world to almost a standstill,
Yet we never stood still to let inaction take over.
Each one of us did the best we could,
And we'll keep on doing till your traces wither.
We may have our differences at times,
But when trouble knocks on our door we all stand one.
We may act selfish sometimes,

But in catastrophe we refrain from helping no one.
However thanks for reminding us to leave wildlife alone,
Otherwise all we'll have left to do is mourn.

— **Abhijit Naskar**

Coronavirus contagion in India is unceasingly escalating. The states are in a combat mode to rheostat the spread of the infection. There has been a lockdown across the country and all the proceedings suspended.¹

- All states and Union Territories have been directed to invoke provisions of Section 2 of the Epidemic Diseases Act, 1897 so that Health Ministry advisories are enforceable. Actually in January 1897, Council member J Woodburn tabled the Epidemic Diseases Bill. The Bill was referred to a Select Committee, which submitted its report on 4th February 1897. The Bill was passed the same day, after a brief discussion.
- The Epidemic Diseases Act consists of four sections and aims to provide for better prevention of the spread of Dangerous Epidemic Diseases.
- It is routinely enforced across the country for dealing with the outbreak of diseases such as swine flu, dengue, and cholera.
- The colonial-era Act empowers the state governments to take special measures and prescribe regulations in an epidemic.
- It is a state act and not a central act.

PROVISIONS OF THE ACT:

The Act, which consists of four sections, aims to provide “for the better prevention of the spread of Dangerous Epidemic Diseases.”²

¹ IN-DEPTH: EPIDEMIC DISEASES ACT, [HTTPS://WWW.DRISHTIIS.COM/LOKSABHA-RAJYASABHA-DISCUSSIONS/IN-DEPTH-EPIDEMIC-DISEASES-ACT#:~:TEXT=EPIDEMIC%20DISEASES%20ACT%2C%201897,THE%20ACT%20CONTAINS%20FOUR%20SECTIONS](https://www.drishitias.com/LOKSABHA-RAJYASABHA-DISCUSSIONS/IN-DEPTH-EPIDEMIC-DISEASES-ACT#:~:text=EPIDEMIC%20DISEASES%20ACT%2C%201897,THE%20ACT%20CONTAINS%20FOUR%20SECTIONS) ACCESSED ON 2ND JUNE 2020.

² GOVT INVOKES EPIDEMIC DISEASES ACT, 1897, WHAT IS IT? [HTTPS://IASSCORE.IN/CURRENT-AFFAIRS/PRELIMS/GOVT-INVOKES-EPIDEMIC-DISEASES-ACT-1897-WHAT-IS-IT](https://iasscore.in/current-affairs/prelims/govt-invokes-epidemic-diseases-act-1897-what-is-it) ACCESSED ON 2ND JUNE 2020.

Section 2 empowers state governments/UTs to take special measures and formulate regulations for containing the outbreak. It is as follows

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

Section 3 provides penalties for disobeying any regulation or order made under the Act. These are according to section 188 of the Indian Penal Code (disobedience to order duly promulgated by public servant).

Section 4 gives legal protection to the implementing officers acting under the Act.

BACKGROUND:

- The Epidemic Diseases Bill was tabled on January 28, 1897, during an outbreak of bubonic plague in Mumbai (then Bombay).
- The existing laws were deemed insufficient to deal with various matters such as “overcrowded houses, neglected latrines and huts, accumulations of filth, insanitary cowsheds and stables, and the disposal of house refuse.
- The Bill called for special powers for governments of Indian provinces and local bodies, including checking passengers off trains and sea routes.³

³ Supra 1

AMENDMENT TO THE ACT:

- Recently, the Cabinet amended the Act through an ordinance stating that commission or abetment of acts of violence against healthcare service personnel shall be punished with imprisonment for a term of three months to five years, and with fine of Rs 50,000 to Rs 2 lakh.
- In case of causing grievous hurt, imprisonment shall be for a term of six months to seven years and a fine of Rs1 lakh to Rs 5 lakh.⁴

ENFORCEMENT OF THE ACT IN THE RECENT PAST:

- It is not the first time that this Act has been invoked in India.
- In 2009, to tackle the swine flu outbreak in Pune, Section 2 powers were used to open screening centers in civic hospitals across the city, and swine flu was declared a notifiable disease.
- In 2015 to deal with Malaria and Dengue in Chandigarh the Act was implemented and collecting officers were instructed to issue challans of Rs 500 to offenders.
- In 2018 the District Collector of Vadodara issued a notification under the Act, declaring Khedkarmsiya village as Cholera affected after 31 persons complained of the disease.⁵

GLOBAL RESPONSE:

- The COVID-19 outbreak was declared a Public Health Emergency of International Concern by the WHO on 30th January 2020.
- According to recommendations by the World Health Organization, the diagnosis of COVID-19 must be confirmed by the Real Time- Polymerase Chain Reaction (PCRT-PCR) or gene sequencing for respiratory or blood specimens, as the key indicator for hospitalization.
- \$15 million dollars has been released from the UN's Central Emergency Fund to help fund global efforts to contain the spread of the COVID-19 coronavirus, particularly vulnerable countries with weak health care systems.
- Vaccines are being developed.⁶

The prolonged lock down and in its aftermath the government decisions and responses raise a pertinent question, “*are we risking the future of our nation to save our present?*” The

⁴ Ibid

⁵ Supra 1

⁶ In-Depth: Epidemic Diseases Act, <https://www.drishtiias.com/loksabha-rajyasabha-discussions/in-depth-epidemic-diseases-act#:~:text=Epidemic%20Diseases%20Act%2C%201897,The%20Act%20contains%20four%20sections> accessed on 2nd June 2020.

answer is from the fear that a large jump in public expenditure now will make international rating agencies anticipate a spurt in inflation in the future, and downgrade India's credit rating. This could trigger a flight of foreign short term capital from the country and bring the rupee-dollar exchange rates crashing down. Its fear is comprehensible. But is evading deficit financing, and trying to save the present by shifting the encumbrance onto the future the answer?⁷

As the number of Covid 19 cases increasing day by day and still there is no clarity about the future on one hand and drastically sinking economy on the other poses a pertinent question in a rational mind, is it now essential to begin end of lockdown. This dilemma will always be larger than life when there is a single objective of saving lives in a pandemic. But it must also be recognized that the health of people and the health of an economy are interdependent.⁸

⁷ Phasing out India's Lockdown Is Essential, but With More Nuance than what's been done So Far <https://thewire.in/economy/india-lockdown-fiscal-policy>, accessed on 2nd June 2020.

⁸It is now essential to begin end of lockdown <https://indianexpress.com/article/opinion/columns/india-lockdown-coronavirus-pandemic-6385425/> accessed on 2nd June 2020.