

Antique Law Returns to Fight a Modern Disease

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Abstract

The present article is an effort to shed light on the disruptions and threat caused by the outbreak of COVID-19 and the return of antique law to fight COVID 19. The novel corona virus pandemic has brought about a new set of challenges for the lifestyle and development of Indian people. The current scenario has halted all kinds of activities for most of the sectors. In reference to cope up with the present unfavorable circumstances, the Indian government has decided to reimplement some of ancient laws, which are almost extincted a long time ago. Government officials assert such laws are needed for the smooth implementation of measures in the battle against a seemingly uncontrollable disease.

Key Words

COVID-19, Pandemic, Epidemic Disease Act, Essential Commodities Act, Quarantine, Force Majeure

I Background

COVID-19 is an infectious and contagious pandemic which causes respiratory illness. There is currently no vaccine to prevent corona virus disease. The recent outbreak of the novel corona virus has caused disruptions across the world. India also reports a big rise in death toll in a single day. The COVID-19 outbreak has breathed life into antiqued laws that give authorities extraordinary powers to combat this contagious disease.

The impact of corona virus or COVID-19 on domestic and international business is severe, across countries and sectors. This note has been prepared to highlight some of the COVID -19 outbreak related key legal issues that companies should be thinking about in the current environment.

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The Prime Minister Shri Narendra Modi on March 24, 2020, i.e, Tuesday announced a 21 days national lockdown to contain the spread of COVID-19 by invoking the *Disaster Management Act/ DMA (2005)*. The law gives the central powers to take quick policy decision and impose restrictions on people to manage a disaster.

Authorities in India have invoked the *Epidemic Disease Act (1897)* to shut down corporate offices and impose a fine for denial. Even industrial processes that require continuous operations would have to be scaled back with 50% staffing.

Health is a state subject. *Section 2 of the Epidemic Disease Act* empowers a state to inspect people and segregate suspected patients.

Various states have invoked the *Essential Commodities Act* which is usually enforced to control the prices of the commodities deemed essential. This law has recently been used by states and centre to control the prices of masks, hand sanitizers and alcohol.

Himachal Pradesh procured N95 masks, hand sanitizers and surgical masks and gloves under the Essential Services Maintenance Act.

In India, the Department of Expenditure Procurement Policy Division, Ministry of Finance issued an office memorandum on February 19, 2020 in relation to the government's manual for *Procurement of Goods (2017)* which serves as a guideline for the procurement by the government.

In this context, the outbreak of COVID – 19 seems to be a Force Majeure Event. COVID-19 is likely to give rise to a valid force majeure defense under every contract and in every circumstance as different contracts and governing laws stipulate different requirements for different situations.

The law relating to *Force Majeure* is embodied under *Section 32 and 56 of the Indian Contract Act (1872)*. It is a contractual provision agreed upon between two parties.

Companies are therefore, well advised to proactively manage the related legal risk and carefully assess which party must ultimately bear the financial losses caused by COVID-19.

The Indian government is actively following the medical isolation (Quarantine) to fight COVID-19 now a days . Quarantine is also not an alien concept. It has been invoked several times earlier during

the bizarre situation. The first law on medical isolation was passed by the Great Council in 1377 when the plague was rapidly ruining European Countries.

In India, when an employee of the World Wildlife Federation was diagnosed with Human Immuno Deficiency Virus (HIV) in 1990, he was terminated from service and detained for 64 days in quarantine like isolation under *Goa Public Health (Amendment) Act, 1957 (GPH)*.

The global community as well as the Indian Government is demonstrating solidarity and co-operation in compliance with *Article 44 of the IHR (2005)*. Under article 44 of the IHR, state parties implementing additional health measures that significantly interfere with international traffic (refusal of entry or departure of international travelers, baggage, cargo, containers, conveyance, goods and the like or their delay for more than 24 hours) are obliged to send to WHO the public health rationale and jurisdiction within 48 hours of their implementation.

II Conclusion

The COVID-19 pandemic has now very adversely impacted the overall economical, social, emotional and investment climate. All sections of the country are feeling repercussions of COVID-19 pandemic. The development chain has also witnessed a decline. The new India of present era is finding the solution of the COVID hazards in the laws and rules of ancient era. Some of the antiqued laws are providing profound success also. A very common saying of laymen term ‘OLD IS GOLD’ seems to be true in this context.

Indeed, it won't be wrong to assert that some of the antiqued laws like EPIDEMIC DISEASE ACT, ESSENTIAL COMMODITIES ACT, IHR and MEDICAL ISOLATION are acting as the panacea in this hazardous situation.

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