

## Recent Inevitable Amendments in Epidemic Diseases Act, 1897 Amidst Covid-19 in India

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### **Abstract**

*The Epidemic Diseases Act, 1897 is a law which was first enacted to tackle bubonic plague in Mumbai. The law is meant for containment of epidemics by providing special powers that are needed for the implementation of containment measures to control the spread of disease. The act is being enforced across India in order to limit the spread of corona virus disease 2019 during the COVID-19 pandemic in India. This act has 4 sections in total thereby it is called the shortest act in India. There are some powers have been given to the State government under Section 2 of this Act and some powers to the central government under Section 2 (A) to implement this act to control any epidemic. The Epidemic Diseases (Amendment) Ordinance, 2020 was promulgated on April 22, 2020. The Ordinance amends the Epidemic Diseases Act, 1897. The Act provides for the prevention of the spread of dangerous epidemic diseases. The Ordinance amends the Act to include protections for healthcare personnel fighting against epidemic diseases and expands the powers of the central and state government to control the spread of such diseases. **Quarantine** has been considered the old method to restrict the spread of bacterial infections and viral attacks. It has been legally sanctioned by all jurisdictions in the world for the maintenance of public health and life to control the transmission of diseases. Quarantine is an act of isolation in which people who are exposed to an infectious disease are supposed to be isolated at a place for a fixed time. **Coronavirus** is highly contagious, that is why travelers from corona exposed countries and people coming in contact with Corona infected persons are necessarily kept under observation to ascertain their medical status for a better prevention. However, people are evading health screening at airports, fleeing from quarantine, hiding their travel history and not following the rules prescribed for self-isolation by the concerned authorities. People are largely unaware of the existing laws under which they can be prosecuted for such actions that are injurious to the health and safety of others. This paper outlines the important initiatives taken by central and state government under the Epidemic Diseases Act, 1897 to control the diseases and lives of people.*

**Key words:** *Amended Provisions in EDA during Covid -19, Legal Frameworks for Health & Safety, Administration of Central & State Government in Pandemic, Penalize Provisions in out breaking the Laws.*

### **Introduction**

The Union Cabinet officially imposed an ordinance proposing new amendments to the Epidemic Disease Act, 1897 on 22 April 2020. It has been enforced that attacking the healthcare workers is a non-bailable offence which may cause imprisonment from 6 months to 7 years and fine up to Rs 5 Lac. Currently the entire world is bravely facing the challenge of Coronavirus outbreak. The Coronavirus has spread in all over the world and causing deaths. That is why every country and government has taken various measures to prevent the spread of this pandemic. The Ministry of Health, Government of India has now decided to implement mainly sections 2 and 3 of the 123-year-old law Epidemic Disease Act, 1897. After observing the various incidents of attacks on the corona warriors, the concerned government has brought out an ordinance to sharpen the teeth of the Epidemic Disease Act, 1897. The Ordinance expands the powers of the central government to regulate the inspection of any means like bus, train, goods vehicle, ship, vessel, or aircraft leaving or arriving at any land port, port or aerodrome. Further, the central government may regulate the detention of any person intending to travel by these means. When prosecuting a person for causing grievous harm to healthcare service personnel, the Court will presume that person is guilty of the offence unless the contrary is proved.

Key confronts for the future demanded from this analysis are the need to address the importance of gaining greater public visibility for public health and increase their capacity to work across sectors to develop policy and plans to improve health and the importance of working with all the people and organizations that have a role in improving or protecting the health and life of populations ( Nutbeam D, Wise M.). In India, the range and burden of infectious diseases is large. The administrative responsibilities of the health system are shared between the central (federal) and state governments to control the diseases and outbreaks is the responsibility of the Central Ministry of Health which also lacks a formal public health department for this purpose (John TJ, Dandona L, Sharma VP, Kakkar M.). Diseases like Influenza is a national and international pandemics result in economical and political upheaval. Emergency planning is a prerequisite for effective health disaster preparation and includes measures, mitigation of such problems. It necessarily involves development of plans, policies and procedures for comprehensive legal frameworks which are required to strengthen such planning and procedures. Sound public health laws set up the powers and duties of government to prevent disease and injury and to promote the health and welfare of society. Undoubtedly a sound legal framework plays a crucial role during emergency situations and also prescribes not only the rights and duties of individuals, but also the scope of government's responses to public health emergencies at local, national and international levels. Law shapes the role of state action, state action is also shaped by a range of factors such as culture, relationship between the community and the state and the economic and socio economic standing of its populations. Along with law as an important tool for containment of communicable and non-communicable disease, social measures are also authorized by law for a better medical interventions. (Kakkar M, Hazarika S, Zodpey S, Reddy KS.)

### **Objectives of Amendments in Epidemic Diseases Act during Covid-19**

- To provide a better prevention of the spread of dangerous epidemic diseases.
- To take special measures and prescribes regulations as to dangerous epidemic disease.
- To empower the Central & State Government to implement the law & order.
- To penalize the people who do not follow the prescribe rules.

### **Recent Inevitable Amendments in Epidemic Disease Act, 1897**

The Union Cabinet has approved promulgation of an Ordinance to amend the Epidemic Diseases Act, 1897 to protect healthcare service personnel and their property including living, working premises during epidemics.

### **Provisions in Section 2 of the Epidemic Diseases Act, 1897**

When the state government at any time feels that a dangerous epidemic is spreading in any part of that state or any area, there is a possibility of the same. If the state government is satisfied that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take strict actions or may empower any person to take, adequate measures by public notice, so that the outbreak of such disease or the spread thereof, can be checked and controlled.

### **Section 2 (A) of the Epidemic Diseases Act, 1897**

When the Central Government is satisfied that an epidemic has spread or is likely to spread in India or any part of it and the Central Government feels that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take some drastic measures which include:

- i) Inspection of any ship or vessel leaving or arriving at any port in the country.
- ii) To detain any person intending to sail therein, or arriving thereby, as may be necessary.

### **Section 2b of the same Act, the State Government shall have the right**

If the inspecting officer suspects, that people travelling by rail or port or otherwise are suffering from an epidemic, shall have the right to keep all such peoples in the hospital or temporary residence or Quarantine them for some time.

### **Section 3 of this Act**

This section has the provision of the Penalty under section 188 of the Indian Penal Code (45 of 1860). In case of non-compliance of the government order in relation to the epidemic would be an offence and the offender shall be punished as per Section 188 of the Indian Penal Code. Apart from this, if a person takes any good step to prevent the outbreak of this disease, then no legal action shall be taken against him.

The **Honorable President of India** has also given his assent to this ordinance.

### **Some provisions of this ordinance include:**

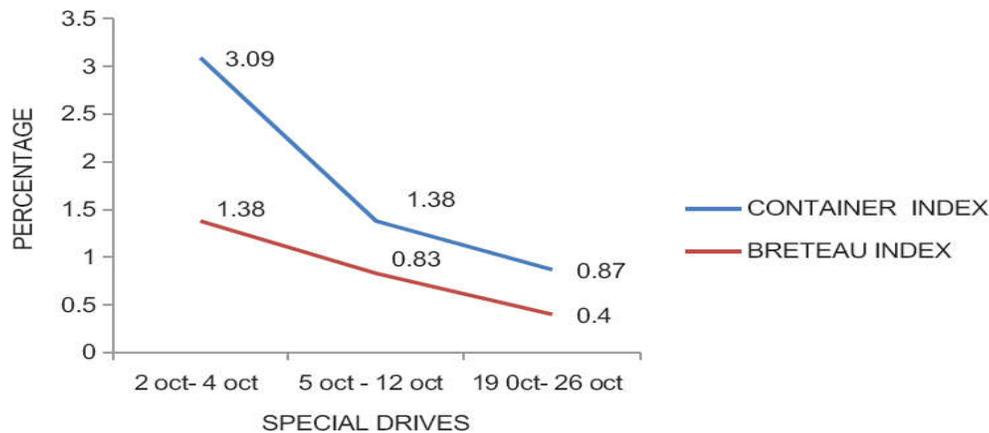
- The amendment makes acts of violence (against health workers and other medical staff) as a cognizable and non-bailable offence.
- Commission or instigation of violence against health workers shall be punished with imprisonment for a term of three months to five years and with fine of Rs.50,000/- to Rs.2,00,000.
- In case of causing grievous hurt to the health workers, imprisonment shall be for a term six months to seven years and with fine of Rs.1,00,000/- to Rs.5,00,000/-.
- In addition, the offender shall also be liable to pay compensation to the victim and twice the fair market value for damage of property this includes living or working premises or car etc.
- The Act has been routinely used to contain various diseases in India such as swine flu, cholera, malaria and dengue. **Figure 1.** Shows that in 2018, the Act was enforced with some necessary provisions as cholera began to spread in a region of Gujarat. In 2015, it was used to deal with dengue and malaria in Chandigarh and in 2009 it was invoked in Pune to combat swine flu. Starting in March 2020, the act is being enforced across India in order to limit the spread of Coronavirus disease 2019 during the COVID-19 pandemic in India.

**Figure 1: Earlier some amendments took place while enforcing the law in the year 2009, 2015, 2018 in Maharashtra, Chandigarh and Gujrat respectively.**



The Act was necessarily invoked in Chandigarh in the year 2015 with the provision of mandatorily notifying case of vector-borne diseases to the concerned health department. The public health coordination committee, public health action committee, and response team and epidemic supervisory committee were formed to enforce certain laws in this Act. Notices regarding its implementation were issued in leading newspapers of Chandigarh. Power of issuing caution notices rested with the team supervisors, but challans were levied by the anti-malaria officer. If there was any resistance during the challans and notices, there was the provision of 6 months jail under Sec188 of Indian Penal Code. In three special drives conducted by 29 inspection teams in October 2015, covering high-risk breeding areas, namely, households, hotels, government offices, schools, market area, and rooftops of sector markets in different parts of city; 550 notices and 75 challans were issued to offenders who violated the provision of Epidemic Disease Act. **Figure 2.** shows the effect of special drives conducted in Union Territory of Chandigarh. The container index and breteau index drastically decreased after the implementation of active drives under this Act.

**Figure 2: Effect of special drives during Epidemic Disease Act on Container Index which is 0.87,1.38,3.09 and Breteau Index which is 0.4,0.83,1.38.**



## Conclusion

There is a great need to strengthen legal frameworks to prevent and control the spread and existence of communicable diseases in India. The Epidemic Diseases Act 1897, which is more than a hundred years old and applied with inevitable amendments amidst Covid-19 in India. Additionally, States may also issue orders by invoking Section 144 of CrPC, 1973 to restrict public gatherings and impose a curfew. Violation of orders under section 144 CrPC is also punishable under Section 188 of the IPC. It is truly a fact that this century old Act needs a complete renovation of laws for health priorities and controlling of deadly diseases. The role of public health specialists in this regard cannot be ruled out. The lawmakers should also deal with National Disaster Management Act 2005 as it clearly defines all the terms and proper depiction of all the implementing actions and agencies to be instituted at the time of any emergency. There is a need for an inclusive and pertinent legal provision to control the outbreaks in India that should be expressed in a righteous approach which can enforce the laws as needed at any point of time. The officers who are entrusted with the responsibility of enforcing the law and order under the Epidemic Disease Act, 1897 shall be protected from prosecution for anything done by them in good faith in implementation of this law. With an objective to replace this old law, A Public Health (Prevention, Control and Management of Epidemics, Bio-terrorism and Disasters) Bill was also drafted by the Ministry of Health and Family welfare in 2017 to authorize local government bodies for taking speedy action during emergency situations.

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