

COVID-19 AND ITS SOCIO-LEGAL IMPACT

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“The fact that there was no catastrophic pandemic in recent history does not mean there won't be another one and certainly we are not prepared for the next pandemic”

- Bill Gates

Introduction

There are tragedies which humans have faced since time immemorial there are few which have shaken the world at occasions, inter alia, namely; Great Plague of London (1665-1666), Russian plague (1770-1772), Philadelphia yellow fever epidemic (1793), Spanish Flu (1918-1920), H1N1 Swine Flu pandemic (2009-2010), West African Ebola epidemic (2014-2016). After all these pandemics we, as a world in present time, are facing the recent pandemic whose name is given by World Health Organization as “covid-19”. Which has placed all the countries, whether belongs to UN or not, at one place. All are suffering and helping each other to fight against this pandemic. The gravity of this virus can be observed as we have enough technology, education, science and other things which humans have developed so far, which we were never have, still this virus (Covid19) is showing its great impact on the countries despite best of the best facilities they have and other best technologies they have like in Europe Italy, Spain and France death toll is not decreasing. At this time when the best technologies are unable to stop the spread of this virus its impact can be imagine in the countries like India and other populated countries where poverty is the name which always remains as a issue at the forefront. As the virus is widely spreading it has its positive and negative impact as positive in the sense, the environment is getting clean due the lockdown as there is few industries which are working so due to this no more pollution which we were having in precedent. The nature is more seems to like cleaning itself. But there are other greater harmful impacts of this virus which humans are facing at present and have socio-legal impact on the society.

Civil Law

There are many legal impacts of this outbreak especially in commercial sector where “doctrine of Force Majeure” and “doctrine of frustration” might become the focus point as there is possibility that these two provisions as former relates to the section 32 and later deals with section 56 of the Indian Contract Act, 1872. Due to which court may face bunch of cases after

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the reduction in lockdown and establishment of special court related to this type of cases is an option which is available in the hand of government to face this type of problem. As in lockdown the access to justice is a major problem which victims and other parties relating to civil suits are facing and not able to reach court, though online hearing through video conferencing is introduced by the ministry of finance. However, according to the letter of BCI chairman to the Chief Justice of India which reveals that “90% of the advocates and lawyers unaware of the technology” and advising against continuation of virtual hearing post lockdown, so this may be a major inconsistency between the decision of finance ministry and the lack of awareness of lawyers towards technology. Additional to this section 5 of the Limitation Act may likely to be invoked as it provides condonation of delay upon the assertion of sufficient reason of delay.

Criminal Law

The other legal impact which can be seen in criminal matters as sections 269 and 270 of the Indian Penal Code, 1860 (IPC) get attracted when the problems related to the pandemic arises and 188 of the same code also attracted when section 144 of the Code of Criminal Procedure, 1973 (CrPC) invoked by the District Magistrate as per the direction of State Government. “According to the Delhi police which has registered FIRs against 66,000 people under Delhi Police Act for violating Coronavirus Lockdown. 3350 FIRs have been lodged under Section 188 of IPC; 10000 vehicles impounded”. Though no action has yet been taken against the violators as section 195 of the CrPC might be a reason which prohibits the courts to take direct cognizance of the matter except on the complaint in writing of the public servant concerned or some other public servant to whom he is administratively subordinate.

Domestic Violence

Though home is considered to be as the safest place to live but it might not be the case for women and other dependent family member who are facing domestic violence. As United Nation Chief António Guterres is calling for measures to address a “horrifying global surge in domestic violence” directed towards women and girls, linked to lockdowns imposed by governments responding to the COVID-19 pandemic. Though many countries have taken steps to control this situation as many states in India like Andhra-Pradesh has established many “Disha Centres” to control this kind of the situation which is likely to be arise because “as per the data of NCRB, a total of 89,097 cases related to crimes against women was registered across India in 2018. The figures show not much has improved compared to the figure of 86,001 cases

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which were registered under this head in 2017. The crime rate per lakh women population is 58.8 in 2018 in comparison to 57.9 in 2017. This data is related to before covid-19 but what would be scenario at the time of lockdown and covid-19 is a question of facts and circumstances.”

Freedom of Movement

There is other possibilities which may likely to be arise that aggrieved citizens, if lockdown got extended, may try to reach High Court or Supreme Court because there is prohibition upon the freedom of movement but answer to this question is under article 19 of the constitution of India that reasonable restriction can be imposed upon the freedom of movement.

Price Control

In India, prices of essential drugs are regulated by the Central-Government under the Essential Commodities Act, 1955. The reasoning behind price ceilings is to make drugs cheaper and easily accessible to everyone. It is important because a large section of the Indian population finds it difficult to bear the cost of medications, vegetables and other essential items which may form a significant increase in prices as commercial activities has been stopped in some districts across India. As Consumer Protection Act, 2019 is seems to be a better option but it is not sufficient at the time of urgent need of necessary food items and consumers not able to purchase it and at the same time access to justice is a problem in Lockdowns. So, there is need of active measures which has to be taken by the lawful enforcement agencies so that people of any class may not suffer due to act of the violators of law.

Jail and criminals

As many High-Courts in India have granted parole to the offenders who is not subjected to serious offence whose imprisonment is below 7 years as the High Courts are empowered in this behalf. But at later stage this may affect the bail provisions in a case if the offenders have been released and lockdowns continues. It may be a possible likelihood that they will try to evade the arrest after lockdown and prosecution which is already burdened with the consequences of lockdown has to bear the burden of this new unwarranted circumstances. These offenders may try to harm their own family members and can tempered the evidences. Families of these offenders may get suffered due to actions of granting the parole.

Medical Emergency Provision

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There must be the centralization of power in the case when such kind of hazardous pandemics take places as many State-Government are working autonomously without complying with the Central-Government. There is no provision in the Indian constitution which can give power to the Central-Government to exercise this function as in a well efficient manner by considering this as a national emergency without invoking article 358 and 359 so that fundamental rights of the citizens must not be curtailed. Provision of medical emergency must be added in article 352 because central government faced allocation of budget problems in the states like Maharashtra and West-Bengal which are not reporting properly the actual “status quo” of their state affairs. So, in such case centralization of power is the only option by which government can fight against such pandemic.

Conclusion and Suggestions

All the above facts stated proves that judiciary will going to be the hotspot of pending cases, if necessary steps would not be taken. Enforcement agencies which is already overburdened with the work of investigation might find it difficult to enforce the court orders in proper time. If online access to justice is not going to be promoted there will be serious consequences which country may likely to suffer. Establishment of special courts to deal with cases according to their subject might help the judiciary to have speedy disposal of cases. As problems pertaining to women and other dependent family members of domestic violence, the government must establish “Disha Centres” in every state which are recently established by the Andhra-Pradesh Government and where there are no facilities of call, at that place local shops has to be a place of lodging complaints. States must allocate some budget so that accommodation room, medical examination rooms and medical aid and counselling facilities can be given at proper time. Apart from the lack of medical emergency provision which may jeopardize the life of many people because problem of allocation of budget cannot be unforeseen. Parliament must amend the criminal law procedure and provide the provision that in cases of pandemic there must be safe places for the convicts and undertrial who are in judicial custody and effective steps to be taken instead of granting parole to these offenders or accused. At the same time bail provisions to be amended which may reduce the possibilities of evading the arrest. Apart from it in order to deal with civil cases related to commercial contracts, the establishment of special courts may become helpful for the speedy disposal of cases. In nutshell, once we choose hope and efforts anything can be possible.