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# COVID-19 - Bioterrorism

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## ABSTRACT

*In this technological era, though man-made many things which are highly compatible in all aspects for human life, conversely today's scenario is completely reversed. The fast ever roaming lives of human beings have been clogged. Everyone is fighting with an invisible, unseen and hidden enemy (Biological Agents) from their four walls under lock down. Such Biological agents are organisms or toxins that can kill or incapacitate people, livestock and crops. A biological attack is the deliberate release of germs or other biological substances that can make human beings into severe ill health conditions. A biological attack may or may not be immediately obvious. In most cases local health care workers will report a pattern of unusual illness or there will be a wave of sick people seeking emergency medical attention. After the Second World War, in this technological era completely the entire world is being terrorised by this biological agent and has a severe impact on political, social, economic, religious and cultural rights of human individuals. This paper aims to examine bioterrorism and its impact on the society and to identify international law governing bioterrorism and provide suitable remedies.*

## I. INTRODUCTION

Today, the world is evident of massive destruction of human kind after the Second World War. In this technological era, though man-made many things which are highly compatible in all aspects for human life, conversely today's scenario is completely reversed. The fast ever roaming lives of human beings have been clogged. Everyone is fighting with an invisible, unseen and hidden enemy from their four walls under lock down. The world had a great experience of two great World Wars and with that effect at global platform, International community recognized to save the succeeding generations from the scourge of future wars and thereby the United Nations was established and came into existence from 24<sup>th</sup> October, 1945. Since its inception, though many disasters have been taken place in globally but it was confined to particular geographical area. For instances we can observe many wars. Nonetheless, in those situations, States were ready to fight with their belligerent States to protect their sovereignty

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and integrity. However, Now, the States are busy in fighting with an unknown, hidden and invisible enemy ie., an ongoing pandemic of corona virus disease 2019(COVID-19) caused by severe acute respiratory syndrome corona virus 2 (SARS-CoV-2). This was first time identified in Wuhan, China in the month of December, 2019. Very rapidly, within few months it has been spread over the entire globe. It has been reported in nearly 210 countries and territories resulting number of deaths which has ever been happened after the Second World War. On 11<sup>th</sup> March 2020 the World Health Organization<sup>2</sup> declared the outbreak to be a Public Health Emergency of International concern and recognized it as a pandemic.

The WHO declared that core principles of human rights and health includes accountability, equality and non-discrimination, and participation. It further stated that participation is important to accountability as it provides checks and balances which do not allow unitary leadership to exercise power in an arbitrary manner.

The WHO's adulation for the unitary measures of the Chinese government exercising power in an arbitrary manner is a complete contrast to its own human rights principles.

China responded to the outbreak with a month-long government cover-up in Wuhan that consequently gave way to spread of the epidemic caused by corona virus. Chinese police even persecuted the doctors for the offence of spreading rumours when they were trying to warn the public in late December. The response to an epidemic also determines a country's treatment of the human rights of millions of people affected by it. The most important one is the right to health, but there are several other rights at stake too. These ominous incidents told us in advance that terrorism could come from any mode and any corners of the world. Recent incidents influence and guide public decision making at all levels. The relationship between medicine, public health, ethics and human rights is evolving in response to political, social and economic events. Emerging new infectious diseases and reemerging old ones is shift from infectious or communicable disease to chronic disease increasing importance and relevance of behavioural risk factors and their impact on overall community health.

If we look at the past, the United Nations was established to protect the succeeding generation from the scourge of War, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other

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<sup>2</sup> A specialized agency of the United Nations responsible for international public health

sources of international law can be maintained.<sup>3</sup> Subsequently, global community strived to protect and promote human rights of individuals and thereby the United Nations General Assembly in Paris on 10 December 1948<sup>4</sup> as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected. Accordingly, State parties are responsible to take necessary measures to protect the rights of individuals. The current situation shows that at the international level, individuals are intimidated or terrorized about their survival on the earth. It is a clear evident that all most many nations swift for lockdown in view of the public health. In this technological era, every one confined themselves at home to protect their life and compelled to maintain a social distance and also had to sacrifice their religious, economic and cultural rights. Covid-19 has such a great impact on the entire society and playing a vital role in every moment of their life. A tiny droplets which will produced by coughing, sneezing or talking is main cause for spreading between the people during their close contact. Even these droplets are produced when breathing out, i.e., on the ground or onto surfaces rather being infectious over long distances. Further, this virus easily carry by any object or surface which will be further either touch or use by any other person. Hence, this situation what the present world is terrorized by a simple virus is nothing but bioterrorism which was forbidden by the international community at large through various international instruments. Since, the establishment of the United Nations, it determined and continue its mission to protect and promote the rights of individual in all circumstances of their life either it is war either International or Non-International, natural calamities, environmental deprivation, terrorism and etc., Global environment often alarm with many terrorist activities. Terrorism is a scourge to which the international community has been striving to respond for decades. The obvious challenges it poses are not only long-lasting, but also immediate. Terrorism is a global phenomenon sometimes closely link to armed conflict; and one which the international community is increasingly facing. Across the world, often human beings confront with terrorist activities in their day to day life. It is the prevalent global dilemma which is not appropriately geared by the United Nations even on today

## **II. WHAT IS BIOTERRORISM?**

According to the oxford dictionary, it means---the use of infectious agents or other harmful biological or biochemical substances as weapons of terrorism. It engages, in the intentional release or spreading of biological agents. There are three basic groups of biological agents that could likely be used as weapons: bacteria, viruses and toxins. Biological agents can be

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<sup>3</sup> Preamble of the United Nations Charter

<sup>4</sup> General Assembly resolution 217 A

dispersed by spraying them into the air, person-to-person contact, infecting animals that carry the disease to humans and by contaminating food and water.<sup>5</sup> Biological agents are organisms or toxins that can kill or incapacitate people, livestock and crops. A biological attack is the deliberate release of germs or other biological substances that can make human beings into severe ill health conditions. A biological attack may or may not be immediately obvious. In most cases local health care workers will report a pattern of unusual illness or there will be a wave of sick people seeking emergency medical attention. According to the United States Centers for Disease and Control for prevention(CDC), defines and categorized various bioterrorism agents such as—Anthrax, Botulism, Plague, Smallpox, Arena viruses and etc., for the U.S. public health system and primary healthcare providers must be prepared to address various biological agents, including pathogens that are rarely seen in the United States. Such as a high-priority agents include organisms that pose a risk to national security because they<sup>6</sup>-

- can be easily spread or transmitted from person to person;
- result in high mortality rates and have major impact on public health ;
- cause public panic and social distraction; and
- require special attention for public health awareness.

Even though, Biological and chemical weapons have been in existence for decades, yet the public is not prepared for social and psychological impacts of these weapons on the public health. It shows that today public health concentrates only on chronic diseases like Aids, Tuberculosis, Cancer etc., which resulting in limited training and skills to prepare the public health work force to concentrates on biological agents and toxins which terrorize populations (as what the present global issue COVID-19). Generally in terrorism, we can observe that the majority of Nations planning for emergency response is an overt attacks i.e, such chemical terrorism or bombings. Conversely, Bioterrorism cannot be identified immediately and some of these potential health threats have been recognised for years, until now have not been tackled due to the sprain on the public health system. Further bioterrorism requires the involvement of entire health care infrastructure of the States. In fact, Health care workers offer frontline services whenever there is a threat to human society.<sup>7</sup>

However, it is unnecessary whether public health workforce is prepared for terrorism or for emerging infectious diseases, it is not always possible to know when and where an incident

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<sup>5</sup> <https://www.ready.gov/Bioterrorism>

<sup>6</sup> <https://emergency.cdc.gov/agent/agentlist-category.asp>

<sup>7</sup> Irone O'Boyle, James A.Johnson, Michelle Simms, Robert Metzroth, Terrorism and emergent challenges in public health, *Journal of Health and Human Services Administratio*, Vol-30, No.4(spring 2008) pp 529-548

may happen. Even though, Biological and chemical weapons have been in existence for many years, yet the States are not prepared for the public health, social and psychological impacts of these weapons. The current scenario is the evident that infectious disease has no boundaries. Statistics reveal that even developed countries U.S.A., U.K. Spain, Italy also failed to control COVID-19. Health care workers need proper training and adequate facilities to provide their services. Hence, these challenges are to be adequately addressed for the unimaginable at all times in all places. Globalised community demands the mutual relationship and international relationships between States need for the continuing expansion into areas of national safety and security.

Certain International issues like States Safety, Security, Human Rights and Public Health steered the global community to initiate nation's responsibility to protect and promote the human rights of individuals. Hence, international conventions have come into existence as a boon to protect individual from illegal and dishonest activities of Nations'.

### **III. INTERNATIONAL LAW RELATING TO BIOTERRORISM:**

Global platform assumed the scourge of future generation with the effect of rapid development of Biotechnology and science. Accordingly they developed certain International Legal instruments for restricting the use of certain weapons during the warfare as well as in normal situations. They are ---

#### **THE GENEVA PROTOCOL OF 1925:**

It was the First International treaty outlawed the use of biological weapons during the armed conflicts which was set rules for the World War II. This Protocol banned the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare. It was signed at Geneva on June 17, 1925 and entered into force on February 8, 1928 It prohibits the use of chemical weapons and biological weapons but has nothing to say about production, storage or transfer. The unique character of this protocol was it applies during the warfare. It merely states a rule of law requiring humanitarian conduct during war.

#### **THE 1972 BIOLOGICAL WEAPONS CONVENTION<sup>8</sup>:**

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (usually referred to as the Biological Weapons Convention (BWC), or Biological and Toxin Weapons

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<sup>8</sup> The BWC has 183 States Parties as of August 2019, with Tanzania the most recent to become a party. The Republic of China (Taiwan) had deposited an instrument of ratification before the changeover of the United Nations seat to the People's Republic of China.

Convention,(BTWC) was the first multilateral disarmament treaty banning the production of an entire category of weapons. This was the result of the continuous efforts of the International Community after The Geneva Protocol to prohibit and restricts Biological and Toxin Weapons which causes severe threat to human kind. This Convention imposes obligation on the State parties. Accordingly, "Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain:

(1) Microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes;

(2) Weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict."<sup>9</sup>

Hence, this treaty imposes obligation on the State parties not only in conflict situations even in normal circumstances and further this device not obstructing the peaceful applications of pathogens for instance vaccine production. Thus, BWC provisions apply at all times rather than in wartime only.

Afterwards, the United States Congress passed the Bio weapons Anti-Terrorism Act in 1989 to implement the Convention. The law applies the Convention's consent to countries and private citizens, and criminalizes violations of the Convention.

#### **UNITED NATIONS SECURITY COUNCIL RESOLUTION 1540 (UNSCR 1540-Non-Proloferation of weapons of mass destruction)**

International community recognised that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitutes a threat to international peace and security. This Resolution was passed in 2004, is at the moment the binding international agreement which most directly addresses bioterrorism prevention. According to Merriam, "in the bioterrorism context, UNSCR 1540 play vital role and beyond the BWC are as follows:

1. It mainly focus on non-State actors;
2. UNSCR applies to all including application to States which are not parties to BWC;
3. the necessary measures that States must take to help prevent bioterrorism and
4. A first step in the direction of a quasi-compliance body with some very limited verification and implementation.

In addition to the above, the 1977 International Convention for the suppression of Terrorist

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<sup>9</sup> Art.1 of BWC

Bombings, and two transportation-related treaties which criminalize the transportation of weapons, including biological weapons.

#### **BEIJING CONVENTION 2010 –**

The Beijing Convention (formally, the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation) is a 2010 treaty by which state parties agree to criminalise certain terrorist actions against civil aviation. Further, this treaty criminalises the illegal transport of biological chemical and nuclear weapons.

#### **IV. COVID-19: A GLOBAL THREAT:**

The recent situations forced the world into many challenges including socio, economic, cultural. Survival of individuals is a big debate. It is nothing but the impact of bioterrorism on the civilized community. We cannot make any one's tortuous or criminal responsible for this existing situation. But, the entire world look at the Wuhan situation and thereby pointing Chinese Government Should be responsible for the tortuous activities of State Organs. Accordingly, to encounter these situations and make the China Government is responsible The International Council of Jurists and the All India Bar Association has filed a complaint in the United Nations Human Rights Council. The Complainant has alleged that the COVID-19 pandemic was a "conspiracy of Chinese government aimed at catapulting itself to the position of a superpower of the world under undermining other countries through biological warfare".<sup>10</sup>

#### **V. GROUNDS FOR FILING COMPLAINT ARE AS FOLLOWS:<sup>11</sup>**

Violation of Human Rights Instruments by China Government:

1. Art 25(1) of Universal Declaration of Human Rights<sup>12</sup>: UDHR which was promoted by the International Community on 10<sup>th</sup> December, 1948 sets out the fundamental human rights are to be universally protected:

This obligates the Chinese Government to ensure that it does not interfere directly or indirectly with the right to health of the people Here, the Chinese government has deliberately hidden and censored information relating to the Novel Corona virus and its COVID-19 strain as had been significantly highlighted and early warnings were given by Doctor Li Wenliang, but was

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<sup>10</sup> <https://www.livelaw.in/top-stories/grave-offences-against-humanity-international-council-of-jurists-move-unhrc-against-china-seeking-covid-19-reparations-read-complaint-154744>

<sup>11</sup> [https://www.livelaw.in/pdf\\_upload/pdf\\_upload-372096.pdf](https://www.livelaw.in/pdf_upload/pdf_upload-372096.pdf)

<sup>12</sup> Article 25(1) of the UDHR states the following: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control".

reprimanded and initially punished by the local authorities in China. This action of deliberately withholding significant information pertaining to the virus has led to this global pandemic outbreak and is in direct contravention of the Right to Health provided under Article 25(1) of the UDHR.

2. CHINA HAS VIOLATED ARTICLE 12 OF INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, 1966<sup>13</sup>:

In this case, the Chinese government, by not issuing prompt health warnings regarding the potential outbreak of the COVID-19 in spite of facts being apparent and hazard looming large, and on hiding information of the same from the general public as well as health authorities within its administration, is responsible for the global outbreak of this pandemic and the Chinese government has failed to address prevention, treatment and control of epidemic of covid-19 within its territory and to the rest of the world. Further, the Chinese government has failed to create a proper mechanism to deal with the epidemic and alert the concerned authorities (ex. The WHO) to be able to handle the epidemic properly and ensure proper medical service and attention is provided to the infected persons. The Chinese government has deliberately misled the WHO in their disclosure relating to the deadly Covid-19 virus, in order to ensure the rest of the world is not prepared to handle the virus leading collapse of the world economy.

3. CHINA AND THE VIOLATION OF INTERNATIONAL HEALTH REGULATIONS (IHR):

People's Republic of China has acknowledged the application of the provisions of the IHR within its territories.<sup>14</sup> Afterwards, China, by its constant censorship and hiding of relevant information from the public as well as the WHO, clearly violated the provisions of Articles 6 and 7 of the IHR. It states that the public authorities must notify the WHO about the existence of a disease of public and international concern within 24 hours of assessment of public health information. Here, the Chinese government provided a partial information about the novel

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<sup>13</sup> Art.12 of ICESCR states that 1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, 2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the still birth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases, (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

<sup>14</sup> The International Health Regulations (IHR) was incorporated by the WHO for the purpose "to prevent, protect against, control and provide a public health response to the international spread of disease. Article 4, Paragraph 1 of the IHR states, "Each State Party shall designate or establish a National IHR Focal Point and the authorities responsible within its respective jurisdiction for the implementation of health measures under these regulations

Corona virus only on February 14, 2020 after the virus had affected more than 2000 people and killed about 50. Moreover, the Chinese government failed to procure assistance from experts of the WHO even though the local doctors sought professional assistance from doctors of other countries, as reported in order to identify more about the virus. In fact, that China repeatedly rejected offers of epidemic investigation assistance from WHO in January, 2020. (As reported in The New York Times article (<https://www.nytimes.com/2020/02/07/health/cdc-coronaviruschina.html> dated 7th February, 2020)

4. CHINA IS LEGALLY LIABLE UNDER THE RESPONSIBILITY OF STATES FOR INTERNATIONALLY WRONGFUL ACTS, 2001:

China has violated the Act of 2001 in the following manner: China has violated Article 2 of the Act by way of omission or inaction in dealing with the early days of the outbreak of Novel Corona virus.

5. IMPACT OF NOVEL CORONAVIRUS ON THE WORLD:

The inaction and irresponsibility of the Chinese government in dealing with the early outbreak of the Novel Corona virus has directly led to the global pandemic in the present scenario.

6. COVID-19 IS A BIO-WEAPON CREATED IN WUHAN:<sup>15</sup>

Accordingly the complainants prayed that to enquire and direct the Government of the People's Republic of China and to adequately compensate the international community and member states

## VI. CONCLUSION:

Despite the fact the world community struggle to protect people from all types of tyranny, some incidents quite produce bitter results which the global community has to face the consequences.. Moreover, the BWC exception for defence or peaceful research, valid or not, creates a loophole that certain nations can manipulate to create biological weapons. Hence, current laws and regulations governing biological weapons are insufficient to deter bioterrorists from making false reports from buying dangerous pathogens or toxins and then creating biological weapons. International collaboration on disease surveillance needs to be further strengthened and this is more likely to happen through multilateral collaboration where key stakeholders bring in their expertise and financial resources.

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<sup>15</sup> According to an ET Prime Report, a group of Chinese scientists in Canada were accused of spying and were stripped of their access to Canada's National Microbiology Lab, sometime in August 2019 and the said lab is known to contain some of the world's deadliest pathogens. reported in the Economic Times article - <https://prime.economictimes.indiatimes.com/news/74068009/economyand-policy/coronavirus-is-a-bio-weapon-experiment-gone-wrong-suspectglobal-experts> dated February 11, 2020