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Sweeping an Old Clock- Evaluation of Epidemic Diseases Act, 1897

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ABSTRACT

The article focuses on encapsulating a century old act widely known as THE EPIDEMIC DISEASES ACT, 1897. Each year hundreds of outbreaks occurs but sadly we fail to answer them. Apart from various biological and public health intercessions, there is a strong need to look at the legal framework to review the prevailing health systems in a country. Although we have number of legal apparatus to brace public health measures in a situation of such outbreak, they are not being addressed under a single legislation. The Act of 1897, is a 123-year-old blunt act which needs a substantial amendment to strike out the rising burden of infectious diseases as India is facing dual burden of contagious diseases even in 21st century. The substance of the article is divided into various heads for the simpliciter understanding such as origin of the act, its brief overview, limitations and substantial amendments made by the government. Finally, the article ends with the suggestions and conclusion made by the author(s).

Keywords: Epidemic, Infectious Diseases, Public Health, Legal Framework, Amendment

I. INTRODUCTION

“Epidemics on the other side of the world are a threat to us all. No epidemic is just local.”

~Peter Piot, Belgian Microbiologist

The ongoing nationwide Lockdown in the wake of the global Pandemic caused by the novel Corona Virus has suddenly brought into picture the colonial era legislation. India is currently undergoing a resilient condition. Epidemiological transition period is what we all are going through. In India the implication and extent of contagious disease is gigantic as they already contribute around 30 percent of the disease burden presently persuading in the country. Epidemic Diseases Act is a 123-year-old law which helps India fight against the health emergencies. This is a colonial-era Epidemic Diseases Act of 1897 which is India's solitary law that has been classically used as bedrock for containing the spread of various diseases including cholera and malaria. However, the EDA is a two-page law and also the shortest law

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that India has in the legislature. This act comprises of four sections explaining the title and extent in the primary section, its second section deals with its enforcement, other section entitles the punishment and last section of this act states that no person shall be taken any legal action in against if he undertakes anything under good faith. No doubt this act empowers the government to help combat the contagious diseases, but it suffers major drawbacks also which will be discussed later in this article.

II. HISTORY OF EPIDEMIC DISEASES ACT, 1897

Legal responses are vital during the invocation of Health Emergencies in the country. Same happened over 12 decades back to contain the spread of bubonic disease called plague which erupted over in September, 1896 in Bombay Presidency. It is a well-known event that occurred in the Colonial Era which soon after infected over the major parts of the sub-continent. As the epidemics are dealt with, that time also fear and pushover formed a major part of the community response, and extreme measures denominated the administrative response. The Epidemic Diseases Act, 1897 is the result of those stringent measures taken by the British Government when Queen Victoria was directing Both the Houses of the British Parliament while Delivering her speech on 19th January, 1897 just after four months when the Plague spread took over. Subsequently after the speech of Queen Victoria, not beyond a week, Epidemic Diseases Bill was introduced in the Council of the Governor-General of India in Calcutta for the better prevention of the spread of dangerous epidemic diseases. This bill was introduced by John Woodburn, who recognised that the powers mentioned in the act was remarkable but it was the need of an hour and very necessary. The epidemic which took over 10 million lives could be prevented by taking such measures which adhered isolation, cleaning of houses, disinfecting clothes and continuous screening of the signs of Plaque. With all the discussions lasting only a day this act was finally enacted on February 4, 1897.

III. DECODING THE ACT

The Epidemic Disease Act, 1897 which was enforced with the aim of preventing dissemination of contagious diseases entitles both Union and State Government(s) to take certain definite measures to restrain the outbreak of such diseases. The Act consists of four sections and is among the smallest legislation in India.

- Section 1 of the said act explains the title and extent. This act put outs to whole of India excluding the territories which promptly before 1st November, 1956 were comprised in Part B states.

- Section 2 of the said Act vests in the State Government the power to take peculiar actions and lays down regulations during the outbreak of contagious disease. It further states that if the State authority assumes that, if other legislations regarding the outbreak is not sufficient for the said occasion, the state may take such actions through public notice to advice interim orders for the class of persons to examine.
- Section 2A of the Act entitles the Union Government to take certain course of action and pass ordinance for the surveillance of any ship or vessel coming or departing India and for detaining any person who is intending to sail, if the Central Government is satisfied that India or any part thereof is vulnerable to outbreak of any fatal contagious disease and the ordinary laws are not sufficient to take appropriate measures.
- According to section 3 of the Epidemic Disease Act, 1987, any person who contravenes any order or regulations passed by the State or Central Government(s), shall be liable for the punishment in consonance with section 188 of the Indian Penal Code, 1860. The provision imposes punishment for not obeying orders passed by the government official. Further it is expedient to take into consideration that, an intent to cause harm is immaterial as mere knowledge of the ordinance gives ample cause for liability of committing offence under this section.
- Last section of the Act i.e. Section 4 deals with protection of government officials against legal actions while acting with bona fide intentions under the provisions of this Act.

IV. INDIAN PENAL CODE INTERPLAY IN CONTAGIOUS DISEASES

Along with section 188 of IPC certain other provisions of the Code in relation to public health also comes into force during the outbreak of contagious diseases.

- Section 269 of the IPC talks about whosoever by negligent act spreads infection of a disease threatening to human life, shall be punishable with imprisonment of 6 months and may also be liable to fine.
- Section 270 of the code is a more serious offence as compared to section 269 which states that whoever by malignant act spreads any disease dangerous to life, he or she shall be punishable with imprisonment of 2 years and may also be liable to fine.
- Section 271 of the Indian Penal code states that any person who disobeys the quarantine rules imposed shall be punishable with imprisonment of 6 months and may also be liable to fine.

Talking about the present scenario, FIR has been lodged against renowned singer Kanika Kapoor under section 188, 269, 270, 271 of the Indian Penal Code, 1860 for not obeying the orders passed by the government officials amidst COVID-19 pandemic. The crime branch of Delhi lodged FIR against Maulana Saad and others of Tablighi Jamaat under above mentioned sections for not following the government orders in the wake of global pandemic COVID-19.

V. AMENDMENT IN THE ACT

In the context of increasing instances of harassment on medical personnel by miscreants and thereby obstructing them in performing their duties during this COVID-19 pandemic, the Union Cabinet on 22nd April, 2020 issued the promulgation of an ordinance to amend 123 year old Epidemic Disease Act to safeguard the medical personnel and property against violence during the situation of epidemics and also in order protect the interest of medical community. The President of India has also given his assent for the promulgation of the ordinance.

The amendment makes the act of violence as non-bailable and cognizable offence. The ordinance states that whoever abets or commits the act of violence shall be punishable with imprisonment of 3 months to 5 years and shall also be liable to pay fine of Rs. 50000 to Rs. 2,00,000. In case a person causes grievous hurt, the offender shall be punishable with imprisonment for a term of 6 months to 7 years and shall also be liable to pay fine of Rs. 1,00,000 to Rs. 5,00,000. Furthermore, the offender is also liable to pay considerable compensation to the victim and is also required to suffer the losses made to property twice the fair market value during violence. The amendment also includes the surveillance of road, rail, sea and air vessels by enlarging the scope of vessels coming or departing India.

The medical personnel are the frontline soldiers in battling the spread of epidemic diseases by risking their life to protect the people of society. Instead of receiving respect at the time of epidemics they are being harassed or being subject to violence. The Union Cabinet hopes that approval of such ordinance will boost the confidence in medical community and they will continue to serve the nation through their noble profession especially when country is facing extreme difficulties being witnessed the status quo COVID-19 pandemic.

VI. LIMITATIONS OF THE ACT

The century old act was the result of the archaic framework and hence to work in the dynamic environment where the factors which lead to the spread of contagious diseases has also changed has also changed over the years, this act is silent on certain things which

contribute maximum in the current scenario. This act doesn't fit in the changing priorities of Public Health Emergency Management. This act should look upon certain factors of today where urbanisation has grown, increased number in foreign travels, inter-state migration of people, breakdown of public health measures and biosafety lapses. The act should also have the relook on its territorial extent. The preventions used in controlling and assisting people have also changed. The act is silent on scientific understanding of outbreak prevention and control such as vaccine, surveillance and organised public health responses and puts light on mainly isolation and quarantine. There is no specific description of "Dangerous Epidemic Diseases", the act is even silent on the magnitude and severity of the epidemic disease. The act remains mum on the rights of the citizens and does not take into consideration the interest of the public. It lacks the steps of scientific prevention that the government can take to prevent the spread of the epidemic disease. There should be a code of conduct mentioned, that the public health officials should take in response to the outbreak. The act should also put forth a section for the people who are infected or suspected on the basis of their movement, gatherings, travel, etc. The act remains mum on the legal framework of mass gatherings, closure of the educational and other institutions. Therefore, with the emergence of infectious diseases and their widespread global movement, the legal framework should be strengthened.

VII. CONCLUSION

According to the Author(s) there is a strong need to bolster the scope of Indian legal system to restrict and regulate the entry, outbreak and existence of epidemic diseases in India. The Act in question is more than century old and it lacks to deal with the emergence and re-emergence of contagious diseases in the country, especially in the context of changing public health.

The Author(s) strongly believe that a well-built legal framework not only increases the power of government but it also develops the role of government in prevention and regulation of epidemic diseases. Over the years, many states have developed their own public health laws but most of these are 'policing' acts to control epidemics who are not able to deal with coordinated and scientific responses to avert the outbreak.

Thus, an integrated, broad and concrete legal structure to control the outbreak of contagious diseases in countries like India is much needed. At present, though the Epidemic Disease Act is used to accommodate the outbreak of COVID-19 pandemic, but the law in force lacks the reflection of modern-day realities of the dissemination of disease. However, four sections in

the said Act does not envisage the very interpretation of epidemic diseases. In 2017, the Government of India had introduced a bill called, '**Public Health (Prevention, Control, and Management of Epidemics, Bio-terrorism and Disasters) Bill**'. The bill is supposed to repeal the present Act but three years has been passed, the bill is yet to see the daylight.

Therefore, the author(s) connotes that amendments and repeals are necessary to bring the provisions in tune with the needs of current day and age. Ultimately, the line-up of any legislation should be to make headway a bilateral and ideal model effectively handling the evils without sacrificing human rights.
