

**INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES**
[ISSN 2581-5369]

Volume 3 | Issue 3

2020

© 2020 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in International Journal of Law Management & Humanities after due review.

In case of **any suggestion or complaint**, please contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication at **International Journal of Law Management & Humanities**, kindly email your Manuscript at editor.ijlmh@gmail.com.

The Law Amended Due To COVID-19 Pandemic Vis-à-Vis Impacts

KHYATI KUMARI¹ AND ANAMIKA²

ABSTRACT

Our world will not be the same once it emerges from Covid-19 dramatically changing declared a pandemic by the World Health Organisation, on 24-03-2020 a nationwide lockdown is declared. The transmission and birth of the Sars-Cov-2 virus and The COVID-19 Pandemic has sparked profound suffering and misery all facets of life and of our International Legal structure. It brought a major disruption to economy across the world reflects greater global integration, Travel bans, Fall in Growth of countries depending on mining and oil exports, Impact on real estate sectors where certain change in income tax measures would help this sector to survive certain research report expecting real estate price to reduce in the range of 10% to 20% on account of mismatch demand and supply, the government of all the countries is focusing on maintaining social distancing to control the spread of virus by enacting lockdown. In this Article we mention about Covid-19 impact on law including Intellectual Property, International law, Environment law, Competition Law Concern, Data protection, Privacy and Security, Labour law and Workforce. Finally this paper conclude by providing suggestions and measures to ensure the safety of everyone while clinching to the idea of innovation.

I. INTRODUCTION

The transmission and birth of the Sars-Cov-2 virus and The COVID-19 Pandemic has sparked profound suffering and misery all facets of life and of our International Legal structure. In recent week this virus has spread rapidly in 45 of the 48 countries in Sub-Saharan African also hits the largest economies of countries like South Africa, Angola and Nigeria, GDP reduced by up to 8 percentage point in downward and 6.9 percentage points in 2020 in the baseline scenario, and the global economy is falling into recession. It is one of the greatest headache to world trade organization, Environment Protection Agencies. It left businesses all over the world counting costs. Around 40-70 per cent of the world's population are infected and The death toll now become twice it was two weeks before.³ General

¹ Author is a student at KIIT Law School, Bhubaneswar, India.

² Author is a student at KIIT Law School, Bhubaneswar, India.

³ Article by Parul Malik on Global IP scenario under COVID-19 <https://www.mondaq.com/india/>

measures were taken by all the countries and Institutions like World Bank, EU, International Monetary Fund, OECD for immediate release of Funds to fight the Emergency. As of 07, April 2020 World Bank Accelerated funding expanded to \$14 billion to help corporate and national efforts have been made to detect and accordingly respond to the fast spread of Covid-19.⁴ Covid-19 adopting measures and regulations in labour and commercial law to curfews and Contract restrictions. According to the Survey of March 23, 2020 Covid-19 had substantially changed operations of Law enforcement agency they reduce their use of arrests for minor offenses and also there is requirement of deeper Institutional and Policy Reforms to build resilience and strengthen recovery so as to help government and Institution to rebuild trust.

II. IMPACT OF COVID-19 IN INTELLECTUAL PROPERTY

The COVID-19 pandemic widespread even reached the world of Intellectual property leading to IP challenges for which government has to take centre stage for rapid response to a pandemic faced by the stakeholders related to manufacturing of technologies and product for prevention and development to avoid delays in fighting a pandemic situation in order to not lose any important asset. Intellectual property is moving but at a slower pace, Currently it affected offices like European Patent Offices, U.S Patent and Trademark Offices, IPONZ, National Intellectual Property offices Situated in Sri Lanka, Canadian Intellectual Property Office also Directorate General of Intellectual Property in Indonesia, Federal Circuit and Supreme Court situated across the world.⁵ Certain Steps taken by various IP offices for relief including World Intellectual Property Organization has suspended the PCT forms or letter from transmittal, also the document can be transmitted online through e-mail. European Patent Office extends the period of time from 15th March, 2020 to April 17, 2020 for all the parties. CIPO extended its deadline to May1,2020 and also provided online services for all transaction for all the parties. In Intellectual Property in India the cases having deadlines on or before 14th April,2020 have extended the duration to April 15, 2020.⁶ Currently in India no new filings are possible at Trademark or Patent offices until completion of lockdown therefore the deadlines can be extendable with Petitions.

operational-impacts-and-strategy/919584/global-ip-scenario-under-covid-19

⁴Sana Singh, 'India on lockdown due the COVID-19 outbreak- How will IPO function?'(Singhania&Partners Pvt Ltd, (4April2020),<https://singhania.in/intellectual-property-offices-notification-scheduled-hearings-covid19lockdown-2>

⁵Sana Singh, 'India on lockdown due the COVID-19 outbreak- How will IPO function?' (Singhania &Partners Pvt Ltd, 4 April 2020),

⁶Joe C Mathew, 'Coronavirus: Will Intellectual Property be a hurdle in India's fight against COVID-19

III. COVID-19 AND INTERNATIONAL LAW

As COVID-19 pandemic develops It also Impact on International Law community have been scrambling to make sense of the current situation. It sheds light on How can a global health crises weaknesses of International environmental law certain difficulties faced by them are Analysing responses to the Covid-19 pandemic through a climate lens. Challenges like how Arbitral Institutions are managing current caseloads and preparing for future uncertainties and changes. International Law likely to be responsive to atrocity, war and other disasters.⁷ There are State obligations under the International Health Regulations in light of Covid-19 are Hard-and-fast obligations, WHO obligation to notify under Article 6 IHR falls under this obligation, they are also related to travelers rights. Second, obligation of IHR are protracted. Lastly, contingent obligation highly depending on the circumstances. In light of public International Law, their is a possibility of bringing China to the International Court of Justice for not taking necessary precaution and might have violated the WHO Constitution and Regulation. There are links which show Chinese responsible like unjustifiable delay of information.

IV. COVID-19 & PUSH BACK ON ENVIRONMENTAL LAW

Increased spread of COVID-19 pandemic is a crisis affecting worldwide is destroying the environmental sustainability by increasing the death rate every day also impact on build environment, Wildlife because of loss of tourism less revenue created which is a challenge of protecting wildlife, sustainable finance, water, climate action, biodiversity crises, there are postponement of environmental law because of lockdown patrol reduced by half by local communities .Industries are pushing more plastic pollution We have to build perspective for protecting the nature COVID must not to be used as an excuse. According to the recent updates there are illegal logging surges in Tunisia, deforestation in tropics and illegal mining, poaching in Brazil. The province of Alberta have suspended its reporting requirement under environmental law regime. US also suspended some of its environmental law enforcement by allowing companies to break pollution law during the outbreak. The illegal loggers are taking Covid-19 as an opportunity to invade the protected area and land in Brazil, the deforestation in amazon is even increasing high despite of lockdown. In Canada oppositions to carry Big oil using the covid-19 crisis began to push Keystone XL pipeline from province of Alberta to

⁷Joe C Mathew, 'Coronavirus: Will Intellectual Property be a hurdle in India's fight against COVID-19?', *business today* (New Delhi, 5 April 2020),

the Mexico.⁸

V. COVID-19 AND COMPETITION LAW CONCERN

Our World will be changed once it emerges from ongoing Covid-19 pandemic, state measures have brought also industries such as entertainments, hotels, Airlines, the real estate sector and companies are likely to be worst hit, they must not quarantine its compliance they have to become aware of present opportunities and challenges of competition law concern. Enterprises must prepare themselves to tackle and be aware of consequences of their actions which could have effect under the Indian competition law regime. To overcome from the negative impact on business certain measures are taken by the government they fear that business may use this opportunity to violate competition law and exploit the consumer. Despite this outbreak competition law remain applicable. In April, 2020 Turkish competition authority introduce new Inquiries during Covid-19 Outbreak on anti-competitive activities in retail sector affecting consumer.⁹ Even CCI announced that it will suspend all filing and submission until March 31, 2020 which include any fresh filing that is in process of reviewed, complaint in respect of anti-competitive such as bid rigging and cartel, closing of pending merger clearance transactions. According to Section 3 of the Competition Act, 2002 which prohibits collaboration amongst competitors but there are collaboration take place amongst Competitors to flight from outbreak with respect to its service network, distribution of commodities, production, equipment etc due to its shortages in medical supplies and it must be composed by anti-competitive agreement which is not been exempted by the central government. Any exploitative practices like determining and enforcing the sale price in the market, without any objection refusing to deal with respect to essential commodities products by the competitors shall be punished by the competition authorities in India and abroad Competition authorities of various countries e.g Poland, Greece, Spain, Luxembourg announced that will intently scrutinize its conduct with respect to supply of goods in high demand. There will be No exemption of general crisis under competition law, it applies equally to services, essential and non-essential goods. The competition authority of Kenya undertaken measures like restrictive trade practices for protecting competition market.¹⁰ The CCI started its working effect from 14th April, 2020 after a break of three week work suspension and now it is available for pre-filing through video-conference. The South Africa

⁸ Francis Gurry, 'Some Consideration on Intellectual Property Innovation, Access and COVID-19', (World Intellectual Property Organisation, 24 April 2020), <https://www.businesstoday.in/latest/trends/coronavirus-will-intellectual-property-be-a-hurdle-in-indias-fight-against-covid-19/story/400200.html>.

⁹ Trade Related Aspects of Intellectual Property Rights, art. 73(b), Jan. 1, 1995.

¹⁰ https://indiacode.nic.in/bitstream/123456789/10469/1/the_epidemic_diseases_act%2C_1897.pdf

competition commission were issued block exemption to retail sector and health care sector. It will also assign a priority to a complains of price going during corona virus. Certain measures are taken by International Antitrust Authorities, the first country to relax its competition law and allow proper coordination to retailer is United Kingdom (UK) they even pool staffs. Guidelines issued by the U.S departments and Federal trade commission providing guidance for collaborations of working of businesses to protect the safety of it's citizens.

VI. COVID-19 IMPACT ON DATA PRIVACY, PROTECTION AND SECURITY

The Spread of the Covid-19, Cyber criminals see it as an opportunity led businesses to adopt new use, data collection, numerous challenges faced by companies for managing data protection, security and privacy, Cyber security risks the rules applicable before Covid-19 are continuing to enforce good procedure, auditing and policies, the General Data Protection Regulation provides certain level of flexibility to companies to overcome from challenges. They are not secure there is a re-opening premises and bringing back of employees take place under Covid-19 pandemic. There are numerous impact of protection of personal data is outside the scope of protection of LGPD which exclude from the law under Article 4, item III, a and b.¹¹ For protecting risk from Cyber security U.S and International authorities provided guidance which include Cyber security and infrastructure security agency, New York department of Financial Services, North American Electric Reliability Corporation, Financial Industry Regulatory Authority on March 26, 2020. Suggestion given by National Cyber Security Centre for preparation of training for staff, on how to report problems and the need for prompt action, if any incident occurs.¹²

VII. IMPACT OF COVID-19 ON LABOUR LAW AND WORKFORCE

Due to the Outbreak of Covid-19 Businesses have slowed down labour force continues to be sacrificed there are public health crises, millions of workers are left without work Changes made in Labour Laws which applies to existing and new factories and certain relaxation is given by states over the past weeks that include Rajasthan, Madhya Pradesh, Gujarat, Uttar Pradesh by exemption to employers through amendments or by making executive orders. On 16th March 2020 the Ministry of Labour and the Ministry of Industry, Investment, Trade and Digital Economy they issued a joint communique due to Impact of Covid-19 pandemic.¹³ While in Rajasthan has raised its initial working hours to 12 hours in a day. In Trade Unions

¹¹Office Memorandum No.F. 18/4/2020-PPD titled 'Force Majeure Clause', issued by Department of Expenditure, Procurement Policy Division, Ministry of Finance

¹²Chitty on Contracts, Volume I, (31st Edition), Sweet & Maxwell

¹³Energy Watchdog vs. Central Electricity Regulatory Commission and Others, 2017 (4) SCALE 580

the threshold memberships have been increased upto 30 per cent, in order to being recognized. Major relaxations is given to new established industrial bodies In case of violation of labour laws Employers are exempted to pay penalties, they are allowed to change shifts at their convenience and under the Factories Act, 1948 exempted from inspection from the Labour Department. Even Uttar Pradesh government cleared an ordinance, however exempting businesses from labour law provisions for the next three years. Employment contracts will be temporarily suspended when employees are in quarantine as it is a valid reason for absence, pursuant to Article 32 of the Labour Code.

VIII. SUGGESTIONS

1. Courts to review Patent Law and pass an interim order to have free access to Intellectual Property in pharmaceutical industries.
2. Creating a pool – a collection of patents rights, vaccines and medicines with free licensing or access on affordable and reasonable terms for all countries.
3. It is advisable that the companies not file any lawsuit in the time of such a crisis as it would not only create negative publicity for the company but it would also prompt the government authorities to invoke security exception clause and make the patented technology or products available to all, with the company not only losing on its IP rights but on its monetary income as well.
4. Government can announce giving royalty to potential IP Holders and getting access to their intellectual property in return.

IX. CONCLUSION

To put it in a nutshell, Although COVID 19 has hindered the working of the legal field but the shortcomings are overcome by the measures taken by the Supreme Court and National IP Offices and also by several countries by amending its patent laws. They have found alternatives to continue the work flow by providing options such as video conferencing for hearing cases, extension of deadlines and waiving off the requirement of filing of physical evidence in the view of this pandemic. They have taken necessary measures to ensure the safety of everyone while clinching to the idea of innovation. I have made sure that the broad contours of the problems and suggestions are discussed relating to IP offices in India and abroad
