

“Critical Analysis on Epidemic Disease (Amendment) Ordinance, 2020”**Ritika Ritu**National University of Study and Research in Law,
Ranchi****Aditya Kumar**National University of Study and Research in Law
Ranchi*****Sagarika Mishra**National University of Study and Research in Law
Ranchi***ABSTRACT:**

Health workers are being considered as the torch bearers of the nation during this phase of pandemic of covid-19. There are the ones who are directly exposed to hazards which includes over stretch working hours, psychological trauma, virus, and moreover physical and psychological violence. The question that pops up is whether this is what they deserve? The current short article mainly focuses on the Ordinance that is passed by the Central Government on 22nd April, 2020. The Ordinance has tried to bring the efforts of health workers in the limelight and has in all way tried to cover the areas which could bring back the lost dignity of these health workers. This paper has tried to bring the attention of the readers towards the strength and weaknesses of the concerned legislations along with few suggestive measures that could prove to be a boon for the society.

KEYWORDS:**Covid-19, Pandemic, Ordinance, Act of Parliament, Legislation, PPE, Health care workers, Violence****INTRODUCTION:**

“You treat a disease, you win, you lose. You treat a person, I guarantee you, you’ll win, no matter what the outcome”. -Patch Adams

The above stated is truly quoted by a character of a movie, who wasn’t graduated but was called for treating a patient, as a consequence of which his university threatened to expel him. He then quotes the line and put forward his view that they are not just doctors rather they have to learn to be more compassionate with others. Probably this is what the health care warriors are doing during the time of this pandemic, they are not being just doctors and treating as their profession rather they are feeling compassionate with the person who are suffering and are being there for

them selflessly. But are we as a common man, really respecting their efforts is what we need to re-consider.

The most prestigious and sought after white coat is blood stained- yet again. Not because the plunger of syringe gave way while taking a blood sample, not because some EDTA vial was broken and the sample spilled, but only because those who take the medical fraternity for granted think that they are their public property and they are entitled to be raised to the pedestal of God and then could be brought down by every means possible if either when they fail to magically save the patient or in current situation when they are trying to save their lives by risking their own lives.

Although we all know that jobs are more risky as compared to others. For eg. Mining workers or construction workers are more like to fall prey to accidents as compared to a lawyer or a doctor. It is also believed that there is the situation of both *volenti non fit injuria* and *scienti non fit injuria*, which means that knowing and willingly they have adopted to expose themselves to such risks, but what if suddenly your job becomes risky? How would you feel when your workplace is not able to avoid the kind of risk that it involved? That's exactly what the situation is with various health care workers across the country. They have massive risk of being exposed to this disease and yet there is zero security which is being provided to them

COVID-19 – A POSSIBLE THREAT TO ENTIRE MEDICAL COMMUNITY:

Covid-19 has undoubtedly spread its wing across the globe and has captured the entire world in its arms. During this period of pandemic the medical fraternity has stepped and has burdened themselves with the responsibility of protecting the society even if it is at the cost of risking their own lives. On the fateful day of 11th March, 2020, the World Health Organisation has declared Covid-19 as the global pandemic wherein 1, 18,000 cases were reported from 114 countries with 4,291 casualties.¹ Also, talking about India and its sheer size of democracy makes these problems even more challenging and unprecedented challenges demands rapid measures to deal with the situation. The situation was followed by the announcement of complete lockdown in the country which totally restricted the movement of people inter districts as well. Gradually the lockdown has witnessed few unfortunate incidents of violence against these health workers who have been bestowed with the responsibility of protecting and curing the nation. This phase evidenced the filing of several criminal cases under various relevant provisions of the Indian Penal Code, 1860. This attracted the attention of legislature towards the newly born Disaster Management Act, 2005, whose punitive provisions are found inadequate and wanting, as the maximum imprisonment was given as two years. The frontline health care personnel demanded

¹ Tapesh Kr. Singh, *A Critique On The Epidemic Diseases (Amendment) Ordinance, 2020*, LIVE LAW, (27 Apr., 2020, 9:00 AM) <https://www.livelaw.in/columns/a-critique-on-the-epidemic-diseases-amendment-ordinance-2020-155819>.

for protection and other safety measures. This has attracted the legislature and executive to call for amendment in the existing statute of Epidemic Disease Act, 1897.

CRITICAL ANALYSIS OF EPIDEMIC DISEASE (AMENDMENT) ORDINANCE, 2020:

The Ordinance got the assent amidst the increasing terror of attacks being made on healthcare workers repeatedly across the families of patients and mobs. There were several such incidents one of them being mob attacking healthcare workers in Madhya Pradesh. These warriors went to their locality to screen residents for signs of corona virus, they were beaten badly. Further, on April 16, four people were injured at Moradabad in U.P. as a mob tried to stop a medical team from taking a corona virus infected man into isolation. In another case five people were accused of pelting stones at health worker. Looking at the scenario, the Indian Medical Association demanded the government to introduce a new law to protect doctors, who are risking their lives. They also threatened to go on strike if their safety is not ensured.

The earlier Epidemic Disease Act, 1897 empowered the state government or Union territories to take special measures and formulate rules and regulations for containing the outbreak. It was the duty of state to determine in what manner and by whom any expenses incurred shall be defrayed. It stated that penalties for disobeying any regulation shall be imposed. And it gave legal protection to the implementing officer acting under the Act.

Illustrations to shows the implementation of earlier Act:

- In 2015, the Act was implemented in Chandigarh to deal with widespread malaria and dengue, and the controlling officers were instructed to impose a penalty of Rs 500 to offender.
- In 2009 to deal with the outbreak of swine flu in Pune, the Act was implemented to open screening centre in civic hospitals across the city

Now the question is, seeing the gravity of this pandemic is it possible to cope up with the situation and protect the safeguarding officers with the help of this prevalent Act. The obvious answer would be 'no'. The historians have criticized this Act for its potential for abuse. Sensing the danger that this Act may cause and the insufficiency of the existing Act the need for amending the Act was felt as the need of the hour. The stringent laws should be formulated in the wake of the current situation and for the same the demand for amending the existing statute was made in order to tackle the situation and protect the frontline workers.

When the world is in dire need of each other and also it's the demand of the time that everyone should be each others' support, in such a circumstance if any form of violence against those who are trying to protect the society is completely unacceptable. The intention behind amending the current legislation is to officially announce to the world that amidst the prevalent pandemic

situation, any kind of violence either to the person or property of these health workers would not be tolerated.

As per the Ordinance promulgated, “violence” has been defined to include harassment and physical injury and damage to property, also the amendment makes the offence as cognizable and non-bailable offence. Commission or abetment of such acts of violence 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, 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.² Also, the Ordinance prescribes that any such offence shall be investigated by an officer of the rank of Inspector which is to be completed within a period of thirty days and the trial is to be completed within one year and extension could be granted only with the approval of the court for reasons to be recorded in writing. Moreover, the Ordinance prescribes any offender causing grievous hurt will be presumed as guilty unless the contrary is proved.

Although we may positively assert that there must have been good reason with that of Central Government to not include health workers into the category of public servant under Section 21 of the Indian Penal Code, 1860, because had they been included in the purview of meaning of public servant, there would have been a feeling of threat while committing a crime against them due to excessive punishment leveled for committing crime against public servant under the Indian Penal Code, 1860.³

Though one negative aspect of this Ordinance is that it has miserably failed in respect of legislating any law with respect to Entry 81 of List 1 which talks about the inter-state migration, which could otherwise mean inter-state quarantine. This pandemic situation has witnessed the reverse migration of labour forces back to their states which has resulted in periling the untiring effort of government and health workers to control the situation of alarming growth of Covid-19. An instant legislative action in this regard is the need of the hour.

CONCLUSION AND RECOMMENDATIONS:

By all counts these health care workers have performed exceedingly. They are showing up to their duties in all odd hours. On one hand, in order to ensure the safety of their family these warriors are staying in hotels, garages etc. and on the other hand they are doing their best to be available at their workplace when in need. These health care professions did not sign to risk their

² Press Information Bureau, Government of India, Ministry of Health and Family Welfare , *Promulgation of an Ordinance to amend the Epidemic Diseases Act, 1897 in the light of the pandemic situation of COVID-19*, (22 Apr., 2020, 10: 14 PM) <https://pib.gov.in/newsite/PrintRelease.aspx?relid=202493>.

³ Pre Legislative Research, *The Epidemic Diseases (Amendment) Ordinance, 2020*, (22 Apr, 2020) <https://www.prsindia.org/billtrack/epidemic-diseases-amendment-ordinance-2020>.

lives or for carrying such a dangerous job. So it's the need of the hour to take few moments out to recognize the efforts that these people are giving to make this place a better place to live in.

These health workers are the frontline warriors in dealing with the situation of covid-19 pandemic. They have continuously been putting their lives at risk without even thinking about themselves or their families in order to secure the safety of the nation. Amidst all these what minimum they want is a little safety and a pinch of dignity which they truly deserve. But instead of the respect and the encouragement that they should get they are being harassed physically and mentally and are also subjected to violence. The only ray of hope, in the period of this crisis remains with the replacement of this Ordinance by an Act of Parliament, with a desire that the day when this Act comes into operation the country has overcome this fatal situation and then we would be valiant and secure for all these health workers for any further crisis that we face for centuries to come.

Few suggestive measures that a government may keep in mind:

- Compulsory provisions for providing PPE , Testing Kits, sanitizers etc to all the health workers on duty.
- Any health worker serving the nation during this pandemic, if dies due to this disease, their families should be adequately compensated.
- Any disrespectful act even though verbal or through any gesture should be penalized.

REFERENCES:

INTERNET SOURCES:

- Tapesh Kr. Singh, *A Critique On The Epidemic Diseases (Amendment) Ordinance, 2020*, LIVE LAW, (27 Apr., 2020, 9:00 AM) <https://www.livelaw.in/columns/a-critique-on-the-epidemic-diseases-amendment-ordinance-2020-155819>.
- Pre Legislative Research, *The Epidemic Diseases (Amendment) Ordinance, 2020*, (22 Apr, 2020) <https://www.prsindia.org/billtrack/epidemic-diseases-amendment-ordinance-2020>.
- Cheena Kapoor, *Doctors in India hail new Epidemic Disease Ordinance*, (24 Apr., 2020), <https://www.aa.com.tr/en/asia-pacific/doctors-in-india-hail-new-epidemic-disease-ordinance/1816684>

STATUTES:

- EPIDEMIC DISEASE ACT, 1987.
- EPIDEMIC DISEASE (AMENDMENT) ORDINANCE, 2020