

## **Lockdown and Quarantine during Coronavirus Pandemic in India: Untangling a Tangle of Socio-Economic and Legal Concerns**

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### **Abstract**

*Coronavirus (COVID-19) outbreak with very little initial information about its origin, symptoms, transmission, incubation and longer term effects has created a population health crisis in the World. Sudden occurrence of this deadly virus, has forced governments across the World to put in action several public health interventions to contain it. In India too, the governments used quarantine, national lockdowns, curfews, isolation, social distancing, and massive screenings at various places, health declarations and wearing mask in public as main public health interventions to prevent spreading of the virus. However, in absence of vaccine and antibiotics to avert this virus, the national lockdowns and quarantine have been important component of infection control preparedness in India. But, forcible quarantine and prolonged lockdowns raised several socio-economic and legal concerns which remained unnoticed and unaddressed while dealing with COVID-19.*

*Having this background in mind, the present paper aims to understand the meaning and concept of lockdown and quarantine. The study further throws light on social, economic and legal concerns associated with quarantine and lockdowns strategies used to mitigate corona virus pandemic. Attempts have been made to untangle a tangle of social, economic and legal concerns, which were needed sufficient attention in COVID-19 preparedness, planning and response. The last part of the paper deals with conclusion. The study is purely theoretical in nature hence secondary data like books, news clippings, law journals and reports have been trusted for the completion of the study.*

**Key Words:** *Coronavirus, Lockdown, Quarantine, Social, Economic, Legal.*

### **I. Introduction**

‘Coronavirus’ originated in the Wuhan city of China. This virus belongs to a large family of viruses, with some causing less severe common cold to more

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severe diseases such as acute respiratory syndrome in people.<sup>2</sup> Lakhs of people have come into contact with the virus across the World. Several people have lost their lives and many more are fighting for their lives in hospitals. Realising the alarming levels of spread and severity of the COVID-19 outbreak, the World Health Organisation has declared it a pandemic<sup>3</sup> on 11 March, 2020.<sup>4</sup>

The coronavirus disease has now spread almost in all countries of the World. The mortality rate of coronavirus infected people in USA, Brazil, Sweden, France, Russia, Germany, Italy and England is very high.<sup>5</sup> In India, as on 12 June, 2020, more than 2.50 lakh confirmed cases and approximately 9000 deaths reported from 29 states/UTs. Large number of cases has been reported from Delhi, Mumbai, Maharashtra, Rajasthan, Tamil Nadu, Karnataka, Kerala, Telangana and Uttara Pradesh.

During initial days of occurrence of the virus, very little information was available about its origin, symptoms, transmission, incubation and longer term health effects. However, with the passage of time, more information about the virus started to accumulate with governments. In human, the transmission of the virus can occur via respiratory secretions (directly through droplets from coughing or sneezing, or indirectly through contaminated objects or surfaces as well as close contacts.<sup>6</sup> Current estimates of the incubation period of COVID-19 range from 2-14 days. Most common symptoms of the virus include fever, dry cough, fatigue and breathing difficulty. Persons infected due to the virus require hospitalisation, ventilator and critical care management depending on the extent and stage of infection developed in human body.

To date, no specific vaccine and antibiotics are available to fight against the virus and hence, the governments in India depended on various public health interventions to control it like complete or partial national lockdowns,

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<sup>2</sup>See, "The Pandemic Notebook" a handy book titled "Understanding the Coronavirus Pandemic and Staying Protected against COVID-19" prepared by The Hindu, *available at*:creatives. thehindu.com (visited on 6 June, 2020).

<sup>3</sup>According to WHO, the 'Pandemic' is not a word to use lightly or carelessly. It is a word that, if measured can cause unreasonable fear, or unjustified acceptance that the fight is over, leading to unnecessary suffering and death.

<sup>4</sup>*Available at*:[www.who.int](http://www.who.int) (visited on 6 June, 2020).

<sup>5</sup>*Available at*:[www.euronews.com](http://www.euronews.com) (visited on 6 June, 2020).

<sup>6</sup>See, Guidelines on Clinical Management of COVID-19 issued by Ministry of Health and Family Welfare, Govt. of India, on dated 17<sup>th</sup> March, 2020.

quarantine of infected people, isolation, social distancing and wearing of mask in public, etc. However, the quarantine and prolonged national lockdowns have been the main strategies of governments to prevent the virus. But both these approaches being coercive strategies of public health interventions reflect conceptions of individuals' rights, public rights and legitimacy of state intrusions in individuals' lives. In liberal democratic state like India where poverty has deepens its roots and where balance between individual rights and public rights tilts more towards individual rights, forcible quarantine and complete lockdown as mitigating strategy has given rise to several social, economic and legal concerns.

Having this background in mind, the paper aims to explain about meaning and concept of lockdown and quarantine. Further, this study describes about the purpose, types and implications of quarantine. The study also attempts to untangle a tangle of social, economic and legal concerns associated with use of lockdowns and enforced quarantine.

## II. Lockdowns and Quarantine in India

In India, Central and State governments used lockdowns and quarantine strategies to contain the virus. Till 31 May, 2020, total four national lockdowns were declared. The first lockdown was declared on 24 March 2020, for 21 days,<sup>7</sup> the second on 14 April until 3 May,<sup>8</sup> the third on 1 May until 17 May, 2020<sup>9</sup> and the fourth phase of lockdown began from 17 May until 31 May, 2020<sup>10</sup>. The purpose of all lockdowns was to limit the movement of the entire people of India as a preventive measure against the COVID-19 pandemic.

In the course of all these lockdowns, the government also applied plan of quarantine to prevent the spread of the virus. The people having symptoms of

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<sup>7</sup>See, Government of India, Ministry of Home Affairs, Order No.40-3/2020-DM-I (A) issued on dated 24.03.2020 regarding lockdown.

<sup>8</sup>See, Government of India, Ministry of Home Affairs Order No.40-3/2020-DM-I (A) issued on dated 14.04.2020 regarding extension of first lockdown till 3 May, 2020.

<sup>9</sup>See, Government of India, Ministry of Home Affairs Order No.40-3/2020-DM-I (A) issued on dated 01.05.2020 to extend lockdown. The order came into effect from 4.05-2020 for two weeks i.e. till 17 May, 2020.

<sup>10</sup> See, Government of India, Ministry of Home Affairs Order No.40-3/2020-DM-I (A) issued on dated 17.05.2020 regarding extension of first lockdown till 31 May, 2020.

the virus or people who might be exposed to the virus were sent either to home quarantine or institutional quarantine.

### **i. Meaning of Lockdown and Quarantine**

‘Lockdown’ is not a legal term. Though, the governments in India can exercise lockdown power under various laws.<sup>11</sup>The term ‘lockdown’ is used by government for the first time to counter COVID-19 in India. “Lockdown” may be defined as “emergency protocol that prevents people from leaving a given area”. A complete lockdown will mean that people must stay where they are and not exit or enter a building or the given area.<sup>12</sup>In “Lockdown”, free movement of persons and goods was restricted. However, all essential supplies, grocery stores, pharmacies and banks continue to serve the people. All non-essential activities remain closed for the entire period.

The word ‘Quarantine’ is not a new expression. It has been the oldest method to contain communicable diseases. It means “the restriction of activities or separation of suspect persons from others who are not ill in such a manner as to prevent the possible spread of infection or contamination”. In context of COVID-19 word “quarantine” means separation of individuals who are not yet ill but have been exposed to coronavirus and there have a potential to become ill.<sup>13</sup>

### **ii. Origin of Lockdown and Quarantine**

It has stated in preceding discussion that lockdown has not been oldest method to contain virus. It is newly emerged strategy used by governments across the World to contain the rapid spread of COVID-19. Opposite to this, the concept of

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<sup>11</sup> Certain examples of exercise of lockdown powers of the government can be found in The Delhi Epidemic Diseases COVID 19 Regulations, 2020; The Maharashtra Epidemic Diseases COVID-19 Regulations, 2020; The Punjab Epidemic Diseases COVID-19 Regulations, 2020; The Himachal Pradesh Epidemic Disease (COVID-19) Regulations, 2020, etc.They can, however, enforce a lockdown through the mechanism provided under Section 188 (disobedience to the directions given by a public servant), Section 269 (negligent act likely to spread infection of disease dangerous to life) and Section 270 (malignant act likely to spread infection of disease dangerous to life) of the Indian Penal Code, 1860.

<sup>12</sup> Available at: [economictimes.indiatimes.com](http://economictimes.indiatimes.com) (visited on 29 May, 2020).

<sup>13</sup> See, Containment Plan for Large Outbreaks Novel Coronavirus Disease 2019, Ministry of Health and Family Welfare government of India.

quarantine originated in 1377, in response to the threat of plague to the mercantile city state of Venice, all arriving ships, crews and passengers were isolated for a specified period to allow the appearance of infectious disease and subsequent time for infection to dissipate. At first the period was 30 days which later extended to 40 days.<sup>14</sup> In North America quarantine was instituted in Massachusetts in 1701, to prevent importing small pox, yellow fever, and other infections. In Canada, the first Board of health was set up in Quebec City in response to the threat of imported cholera in 1832.<sup>15</sup>

Thus, quarantine is considered the oldest mechanism to reduce the rapid spread of bacterial infections and viral onslaughts. Method of quarantine is used when persons are exposed to highly dangerous and contagious diseases, when less restrictive means cannot achieve the public health objectives. It is also used to ensure rapid isolation of infectious persons and separation from those merely exposed. It has been legally sanctioned method by all jurisdictions in the world for the maintenance of public health and to control the transmission of diseases.

In India, those who violate the lockdown orders can face legal action under The Epidemic Disease Act, 1897. This Act, lays down punishment as per sec. 188 of the IPC, 1860.<sup>16</sup> Similarly, penal provisions of IPC, 1860 such as sec. 269<sup>17</sup> and sec. 270<sup>18</sup> can be invoked to enforce lockdown orders in various states. Also, if someone escapes “quarantine” or “disobey quarantine rule” the authorities may invoke provisions of sec. 271 IPC wherein violator shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

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<sup>14</sup>A.J. Clayton, “Quarantine and Out-Moded Regulations”, 75(4) *Canadian Journal of Public Health*, 261 (1984).

<sup>15</sup>*Ibid.*

<sup>16</sup>Powers under Section 188 of the IPC can be invoked whereby disobedience to the directions of a public servant is punishable with both imprisonment and fine.

<sup>17</sup> Section 269 provides that “Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both”.

<sup>18</sup> Section 270 of IPC provides that “Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both”.

### **iii. Types of Quarantine**

Central and State Governments used various types of quarantine methods to prevent spread of the virus. All methods of quarantine are enforced on persons who exhibited the symptoms of coronavirus disease depending on their severity (mild or acute). The major types of quarantine practices used are as follows:-

#### ***Home Quarantine***

The home quarantine is segregating the individual in a separate room at home. It is home based isolation of a person who is either symptomatic or asymptomatic of coronavirus infection. The segregation of separated person will be for 14 days. The other family members of the household will maintain a proper distance from the person in home quarantine. The person in home quarantine will have to follow all medical and administrative instructions given time to time regarding his/her stay at home for 14 days. In case the person develops symptoms that require medical care and support, he/she will be transferred to the hospital for examination and treatment. Public health officials and local administration shall have all the powers to keep check on individual in home quarantine.

#### ***Institutional Quarantine***

In institutional quarantine a person will have to stay at institution identified by the Government without mixing with family members or the general public for the mandatory period of 14 days. It is enforced at the institution under the supervision of Directorate of Health Services. This is particularly important for persons who may have been in contact with a person who has signs and symptoms of COVID-19 or is suffering from the disease or has travelled from heavy COVID-19 load area.<sup>19</sup> Travellers coming from countries/territories/areas with active transmission of COVID-19 as analysed and designated by the Ministry of Health shall be quarantined for 14 days at a facility identified by Government. Government is providing transport to all travellers from the high risk countries from the point of entry to the designated facility.

In institutional quarantine medical officers and doctors will keep surveillance on health of the individuals. The doctors dressed in appropriate Personal Protective

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<sup>19</sup> See, Guidelines on Institutional Quarantine for COVID-1, *available at*; [afenet.net](http://afenet.net)(visited on 29 May, 2020).

Equipment ( in short PPE) will daily visit to the centre to carry out a medical check-up. Institutional quarantine is intended to facilitate early detection of ill health due to COVID-19 and to prevent its spread in the communities, to loved ones and/or other countries or areas.<sup>20</sup>

### III. Untangling a Tangle of Socio-Economic and Legal concerns

Prolonged lockdown and quarantine have been the most widely and intensively used tactics in combating coronavirus pandemic. Lockdown and quarantine have put several socio-economic and legal impacts on public health, the economy, social cohesion in States and the global geopolitical situation.<sup>21</sup> The following social, economic and legal concerns associated with lockdown and quarantine come fore.

#### i. Social Concerns

Amid lockdown and compulsory quarantine, various social issues have come to fore. The enforcement of these two methods to prevent COVID-19, resulted into loss of several constitutional and human rights of individuals like right to live with human dignity, freedom of movement, right to education, right to get timely medical treatment, right to life and personal liberty, right to equality, right against exploitation, right to earn livelihood, cultural rights, right to religion and so on. The mass quarantine and its potential threat to individual rights are widely acknowledged.<sup>22</sup> It is true that governments have broad authority to prevent the spread of communicable diseases like COVID-19, but constitutional and human rights of the individuals' must still be upheld and protected. But it did not seem to be protected during lockdown and quarantine. For example, the individuals quarantined at homes were generally instructed by the governments and public health departments not to leave their homes. Such persons could not allow entry of any outside visitors in room. Further, the quarantined person has to wear mask while residing in the same room with other

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<sup>20</sup>*Ibid.*

<sup>21</sup>Roy Schulman and David Siman-Tov, "From Biological Weapons to Miracle Drugs: Fake News about the Coronavirus Pandemic, Institute for national Security Studies, 3 (2020).

<sup>22</sup> See, Lesley A. Jacobs, "Rights and Quarantine during the SARS Global Health Crisis: Differentiated Legal Consciousness in Hong Kong, Shanghai, and Toronto," 41 *Law and Society Review*, 513 (2007).

household members and to sleep in separate rooms. It amounts restriction on his/her right to life and personal liberty and freedom of movement.

Likewise, people were randomly picked up and sent to institutional quarantine. The unhygienic or inhospitable conditions in institutional quarantine amounted human rights violation of right to live with human dignity of quarantined persons. Complaints regarding violations of human rights could not be taken to human rights institutions as the offices of all human rights institutions in India were also closed amid lockdown.

Further, limited religious gatherings of people, imposed restrictions on family functions and funeral attendance during lockdown impinge upon religious beliefs and social values and culture lives of the people. Community restrictions during lockdown also raise profound questions about the government's right to interfere in such areas. In a society, in which basic societal traditions and usages are ignored, people will remain highly dissatisfied.

Also, quarantine and lockdown measures did not seem to be applied in a non-discriminatory way on people. Influential people who were advised to remain in quarantine used their power to evade quarantine<sup>23</sup> while common people having no political links were forced to stay in quarantine and when they dared to violate quarantine norms, they were booked as per law. Any quarantine or isolation measures must be applied in non-discriminatory way irrespective of the status of the person in society. But this aspect rarely has been addressed in COVID-19 response.

Migrants and footloose labour<sup>24</sup> remained most affected segment of Indian population throughout the lockdown. They face discrimination, hunger, poverty, lack of access to basic amenities like food, water, shelter during lockdown and in government notified quarantine centres. The states in India closed their border

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<sup>23</sup> The most visible example of this trend is the Bollywood singer Kanika Kapoor, who arrived in Mumbai from London on March 9, 2020. Unknown to her, she was carrying the coronavirus. But because she had not displayed any symptoms yet, she passed through the airport's detection mechanisms. Since Kapoor was returning from the United Kingdom, as per Union government rules, she should have gone into self-quarantine. Instead, she appeared at parties in Lucknow, attended by Lucknow society-which also included business and political elites from Delhi.

<sup>24</sup> 'Foot loose labour' means a person who works on daily wages and is in search of job on daily basis unlike permanent job.

and limited cross border movements intra state and interstate. This move of States' further aggravated the problem of migrants. Restrictions were required to be managed in a manner which respects international human rights of migrants and refugees<sup>25</sup> but this aspect rarely taken into consideration.

Women, children and old aged persons are the assets of any society. But consecutive lockdowns represents a high risk to them. Women became easy target of abuse, exploitation and neglect<sup>26</sup> while staying at home with abusers.<sup>27</sup> Children were also forced to stay in confined hostile environments with unsupportive family members or co habitants. This increased their exposure to violence, as well as their anxiety and depression. Older people who are quarantined with family members or caregivers faced higher risks of violence, abuse and neglect. These problems of women, children and old aged persons were left unaddressed.

Amid lockdown, various state governments<sup>28</sup> stamp the back of the palm of people advised to be on home quarantine, indicating the date they are allowed to come out of their home.<sup>29</sup> This practice created an atmosphere of suspicion and discrimination in mind of nearby people in locality. The stamping process may also result in public concealment of mild illness for fear of stigmatism. The people might go underground to avoid stamping which could make it difficult to treat them on becoming infected. Thus loss of reputation, integrity, individuality and social stigma associated with forcible quarantine were not addressed.

## ii. Economic Concerns

The spread of the virus also impacted the world economy suspending business activities and forcing millions of people to stay at home in quarantine and

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<sup>25</sup>The rights and health of refugees, migrants and stateless must be protected in COVID-19 response: A Joint statement by UNHCR, IOM, OHCHR and WHO, *available at: <https://www.org/EN/NewsEvents>* (visited on 20 May, 2020).

<sup>26</sup>Sana Malik and Khansa Naeem, "Impact of COVID-19 Pandemic on Women Health, Livelihoods and Domestic Violence, Development Policy Institute, 1 (2020), *available at: <https://www.jstor.org/stable>* (visited on 24 May, 2020).

<sup>27</sup>COVID-19 and the Human Rights of LGBTI People, *available at: [www.ohchr.org](http://www.ohchr.org)* (visited on 22 May, 2020.)

<sup>28</sup> For example, Karnataka government's Health and Family Welfare Department has initiated this stamping process in its State.

<sup>29</sup> *Available at: [timesofindia.indiatimes.com](https://timesofindia.indiatimes.com)* (visited on 30 May, 2020).

lockdowns. Sectors like tourism and travel, agriculture, entertainment, manufacturing and trade, stock markets etc. are the worst hit. Due to stay at home restrictions, people are more likely to be unemployed and to live in poverty than the general population. The situation becomes worse for those people who work in the informal sector and lack access to paid sick leave, unemployment compensation and coverage. The trade, business and individuals contracts all are hit by the extended lockdowns. People advised to remain in quarantine lost jobs, face reduction in their salaries. The probability of getting new jobs all seemed diminished.

Workplaces are vital to the livelihoods of both employers and employees, so closing them caused several financial hardships. In extreme cases, lost profits caused by closings pushed companies to go out of business, leading to job losses and other economic hardships. The effect of lost income on people living at a subsistence level was far worse. The closing of workplaces for a significant amount of time made people incapable to pay for shelter, food and medicine. These economic repercussions were left unnoticed.

### **iii. Legal Concerns**

COVID-19 has given rise to various legal concerns related with protection of women, labourers, migrants, children, old aged persons, homosexuals, environment and Intellectual property rights. Besides, criminal justice system, trade and commerce, police and health workers are also affected adversely due to corona virus outbreak etc. This paper discusses ten major legal concerns that should have addressed or ponder over before and after declaring lockdowns in the country.

#### ***a. Concerns related to Women and Children***

Cases of abuse and violence against women increased during lockdown.<sup>30</sup>In lockdowns women are being told to stay at home. But for victims and survivors of violence stay at home with abusers was not a safe option. According to the data shared by the National Commission for Women, from March 23 till April 10, a total of 370 complaints related to women issues were received by the

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<sup>30</sup>In early April, Rekha Sharma, Chairperson of the National Commission for Women, drew attention to the disturbing phenomenon of a reported increase in violence against women during the first phase of the Nationwide Lockdown in India, *available at*: [www.thehindu.com](http://www.thehindu.com)(visited on 4 May 2020).

panel. Out of the 370 complaints, the highest 123 were of domestic violence.<sup>31</sup> Governments and human rights institutions in the country started online complaints system for protection of women but it was of no use because most government offices either remained closed or run with half-staff amid lockdown. The system of filing on line complaint could not work effectively.

Also, within two weeks of the lockdown, ChildLine centres across India witnessed a surge in calls for protection from abuse and violence in Children.<sup>32</sup> According to Karnataka State Commission for Protection of Children between 25 March and April 5, the Karnataka child helpline number received 37 calls reporting child marriages and 32 calls related to physical abuse of children.<sup>33</sup> The child marriage cases was “abnormally high” during lockdown period and needed to be verified<sup>34</sup> but negligible heed was paid towards their problem. Perhaps people performed child marriage because they could discretely conduct them during lockdown and nobody in their village or town will get to know. The Courts which is authorised to deal with child marriage complaints under Child Marriage Act, 2006 were also remained closed during lockdown. Thus cases relating child marriage could not be dealt with effectively amid lockdown.

#### ***b. Concerns Related to Migrant and Foot Loose Labour***

Amid lockdown and quarantine, migrants faced problems of food, shelter and transportation to reach their native places etc. The Central and State governments failed to pay proper attention towards these problems of migrants. The governments should have made proper policy to deal with migrants suffered but it did not do that. Lack of Centre and State co-ordination on issues of migrants further aggravated their problems. Also, workers who were unable to join office or report to work were terminated or laid off in contradiction to the provisions of Indian labour laws. Employees were terminated without offering

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<sup>31</sup> Available at: [thewire.in](http://thewire.in) (visited on 4 June, 2020).

<sup>32</sup> Available at: <https://thewire.in> (visited on 5 June, 2020).

<sup>33</sup> Amid COVID crisis, Karnataka sees ‘abnormal rise in child marriage, abuse complaints, available at: [theprint.in](http://theprint.in).

<sup>34</sup> Rise in Child Marriage, Physical abuse complaints during lockdown, available at: [thehindu.com](http://thehindu.com) (visited on 30 May, 2020).

any reasonable cause and notice by the employer.<sup>35</sup> These acts were in absolute transgression of the advisory issued by the Ministry of Labour and Employment on wake of coronavirus outbreak.<sup>36</sup>

Also, in post COVID period, the industrial associations requested government to increase working hours of labourers to raise productions and to resume the economic activities.<sup>37</sup> Governments entertained the request and relaxed working hours. But the governments did not gauge the repercussions of long hours working. Long working hours has several adverse implications such as increase fatigue and threat to occupational safety and health of the labours. Similarly, during lockdown the employees are directed to work from home. There is no statutory definition or any specific guidelines and Indian employment statutes that may regulate the said concept. Accordingly, there is flexibility available with the employers to allow or not allow its employee work from home. The employers may specify their own guidelines relating work from home which may result in exploitation of the employees. The benefits of statutory provisions relating to working hours and overtime payment etc. may not be given to employee working from home during lockdown.

According to labour laws, the employers are obligated to pay compensation to employees who are injured (which includes partial or permanent disablement) or die due to accidents arising out of or in the course of employment. If COVID-19 infection infects an employee, in the course of employment and it arose out of employment, the employer shall be legally obligated to pay compensation to affected employees. But under such circumstance, the employer may refuse to pay compensation to employees on the ground that injury does not occur during course of employment. This is a major legal issue which stayed unnoticed amid lockdown. In order to deal above labour issues, labour laws needed changes which could be done by passing ordinances by governments during lockdown.

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<sup>35</sup>AITUC condemns staff termination amid lockdown, *available at*: <https://www.economictimes.com> (visited on 5 June, 2020); see also, Bengaluru E-Commerce Firm Terminates Employees amid Lockdown without giving Notice, *available at*: [www.news18.com](http://www.news18.com) (visited on 13 June, 2020).

<sup>36</sup>See, advisories on COVID-19 issued on 20.03-2020 by Government of India, Ministry of Labour and Employment. *available at*: <https://labour.gov.in> (visited on 5 June, 2020).

<sup>37</sup>Working hours increased in lockdown hit industries *available at*: <https://timesofindia.indiatimes.com> (visited on 11 June, 2020).

***c. Concerns related to Environment***

COVID-19 induced lockdown helped to reduce environmental pollution<sup>38</sup> but it has also some negative environmental consequences. Environment related offices remained shuttered during lockdown. The offices could not enforce environment compliance obligations. Even governments cannot implement their already fixed environment protection related obligations. Non-enforcement of environment compliance obligations amid lockdown may put adverse impacts on environment protection programmes and policy in post pandemic period. Take for example, in post COVID-19 period if environmental protection agencies and states decline to enforce the law, citizens may pursue their own actions in court against regulated entities alleging they took advantage of the situation in order to avoid environmental compliance obligations. It would increase litigations in the courts in post COVID period.

Also due to closing of government offices amid lockdown, volumes of unrecyclable waste arose. Impact of waste remained a concern. Local waste problems emerged as many municipalities had suspended their recycling activities over fears of virus propagation in recycling centres. All afore stated environment protection related concerns have rarely been addressed.

***d. Concerns related to Right to Information***

In lockdown period, governments are being forced to make huge and unprecedented decisions relating coronavirus, quarantine and lockdown. These decisions are vital to public health and therefore public should have right to access decisions taken under RTI Act, 2005. Information sought under the Right to Information Act, 2005 usually takes days, even months, to reach applicants. The entire government's machinery at the centre and in States was combating COVID-19 outbreak and offices of public authorities were shuttered amid the lockdown. The public authorities and governments could not be held accountable for the decisions taken. Thus, the right to information appeared to have been suspended and affected by the COVID-19 crisis. The suspension of RTI obligations must be done so with formal legal changes, it cannot be an informal statement or policy. This brings with it a significant legal and societal

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<sup>38</sup>COVID-19 Pandemic and Environmental Pollution: A Blessing in Disguise, *available at*: [www.sciencedirect.com](http://www.sciencedirect.com)(visited on 5 June, 2020).

shift as people are not expected to criticise authority or hold them to account in their efforts to solve the issue.<sup>39</sup>

***e. Concerns Related to Backlog of Cases***

Lockdown crippled the courts across the country as judges, advocates and litigants were forced to stay at home during lockdown. Due to suspension of the functioning of the courts, the numbers of litigations are bound to increase in courts in post pandemic period. The Supreme court of India vide order dated 23-03-2020 issued directions regarding extensions of period of limitation in all proceedings before courts.<sup>40</sup>The cases which otherwise were listed for hearing during lockdown, could not be heard. Non disposal of listed cases for hearing would increase arrears of cases in post pandemic period. Obviously, more judges, and para legal staff needs to be appointed to deal with possible future litigations. No policy, arrangement or any guidelines have been made to date to deal with this upcoming legal problem.

***f. Concerns related releasing of Prisoners***

The Supreme Court of India in its order dated 23.03.2020, issued order to constitute a High Powered Committee for the release of prisoners in the wake of the public health crisis related to COVID-19.<sup>41</sup>In Indian jails which are overcrowded and unhygienic, ensuring social distancing norm was difficult task. So, as precautionary measure several prisoners were released on parole or interim bail. But releasing prisoners to minimise overcrowding seems unacceptable idea because released prisoners may get involved in crimes. Further, it was government's responsibility to prevent overcrowding in jail and provide best sanitation facilities for prisoners. Failure on part of the government is nothing except shifting responsibility from the prison system to society. The focus should be on preventing the spread of the disease within the prisons and addressing long term challenge such as biased bail system and long

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<sup>39</sup>Available at: <https://gfmd.info/right-to-information-in-the-time-of-covid-19>(visited on 26 May, 2020).

<sup>40</sup>The Supreme Court in its order stated that Appeal, petitions, suits or any other proceedings which are to be time barred if not filed before the respective courts or tribunals shall be deemed to have been extended in this present situation. Available at: <https://www.mondaq.com/india/litigation>(visited on 26 May, 2020).

<sup>41</sup>PUDR demands temporary decongestion of jails in view of COVID-19 public health crisis, see, *Mainstream*, Vol. LVIII No.6 (April 4, 2020).

delays in courts.<sup>42</sup>This aspect seems unnoticed amid COVID-19 induced lockdown.

***g. Concerns Related to Laws to Deal with Virus***

There is no specific Coronavirus Act in India which can deal with prevention of coronavirus. A strategy of lockdown to prevent the virus has been carried out by the State governments and district authorities on the directions of the Union Ministry of Home Affairs under the Disaster Management Act, 2005. Under the Act, the National Disaster Management Authority (NDMA) was set up under the leadership of the Prime Minister and the National Executive committee (NEA) was chaired by the Home Secretary.<sup>43</sup> On March, 24, 2020 the NDMA and NEA issued orders directing the Union Ministers, State Governments and authorities to take effective measures to prevent the spread of COVID-19. In pursuance of the order, these authorities laid out guidelines illustrating which establishments would be closed and which services suspended during the lockdown period. In compliance of the guidelines, the State governments' exercised powers under the Epidemic Disease Act, 1897(in short EDA) to issue further directions. The legal issue arise whether the Act of 2005 was originally intended to or is sufficiently capable of addressing the threat of a pandemic. Also, the use of the archaic EDA reveals the lack of requisite diligence and responsiveness of government authorities in providing novel and innovative policy solutions to address a 21<sup>st</sup> century problem.<sup>44</sup> Another serious failing is that any violation of the orders passed would be prosecuted under sec. 188 of IPC, a very ineffective and broad provision dealing with disobedience of an order issued by a public servant. As such, offences arising out to these guidelines and orders have a weak basis in terms of criminal jurisdiction thereby weakening the objectives of the lockdown.

***h. Concerns related to Centre -State Relationship***

To deal with the pandemic, ad hoc and reactive rule making by Central and State governments reveal the lack of coordination between the Union and State governments. Issues connected with the virus like registration of healthcare professionals, temporary closure of educational institutions, audio visual

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<sup>42</sup>Available at: <https://www.indiaspend.com>(visited on 26 May, 2020).

<sup>43</sup>See, *Economic and Political Weekly*, Vol.41 (35).pp.2-8(January, 2006).

<sup>44</sup>Available at: <https://www.thehindu.com>(visited on 23 May, 2020).

facilities for criminal proceedings, powers to restrict gatherings, and financial assistance to industry<sup>45</sup> were dealt with different orders. The Central government and State governments issued hundreds of orders amid lockdown which created confusion for the people. Union government showed no inclination towards enacting a COVID-19 specific legislation that could address all the issues preemptively. The flip flop of orders regarding inter-state movement has left the fact of hundreds of thousands of migrant workers to be handled by district administration with inadequate resource. This has also exposed the lack of coordination between the Union and State governments.

***i. Concerns Related to Corona Warriors***

Amid lockdown, police, doctors and other medical staff performed major role in preventing and controlling coronavirus. Doctors who helped to treat the virus infected patients and police, who kept close vigil on movements of people to prevent the virus, were right to special entitlements, Personal Protective Equipment while on duties, boarding and lodging facilities amid lockdown and extra wages for overtime etc. The governments in various States announced incentives for them. But paying compensation was not sufficient. Hospital workers, doctors and police personnel, all have right to a safe workplace and protecting their families from infection. Doctors were forced to stay either in hospitals or at their homes with family members. Same was the case of police personnel who were forced to stay in temporary shelters during duties. Amid such situations, there were likelihoods of spreading infection to them and their family members. But no provision was introduced by governments towards the protection and security of the family members of police personnel, doctors and other health workers on duties except financial security.

***j. Concerns Related to Rent Contracts***

Amidst the lockdown rift between landlords and tenants relating payment of rent was seen. At various places in States, the tenants were threatened to be evicted. The landlords expressed unwillingness to excuse rent due to their own financial hardships. A deadlock arose between tenants and landlords. The Centre govt. also issued order on March 29 stating that owners cannot ask for the rent for a month. But the basic question is that why landlord should excuse or defer rent in

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<sup>45</sup>*The Hindu*, India needs to enact a COVID-19 law, available at: <https://www.thehindu.com> (visited on 23 May, 2020).

contravention of the terms of the rent contract. Such order by government is third party intervention between the contracts of two parties. How the government which was not a party of the rent agreement can jump into the matter and can impact the terms and conditions of the rent contract. Also, what if the owner himself lives hand to mouth? Rent can be adjusted on humanitarian ground and must not be ordered by the government who was not a party to the contract between tenant and landlord. Mere announcements in the absence of government ordinances for deference of rent do not legally absolve tenants from rental dues. Similarly, circular issued by government was misconstrued by tenants. Some tenants across the country approached to court to legally enforce the circular issued. It unnecessary increased litigations in courts because circular was advisory in nature.

#### **IV. Conclusion**

The preceding discussions make it clear that COVID-19 induced lockdown and quarantine affected society, economy and legal system of the country. It is true that in absence of vaccine to cure corona virus, lockdown and quarantine were the more appropriate means to prevent the virus. But the question is whether lockdown and quarantine norms are fully adhered to? Whether before declaring lockdowns government was fully prepared to deal with issues such as protection of women, children, medical workers, police personal, old aged persons, environment, migrants, and labours etc.? Answers of these questions are in negative. The government should map out a plan of action before declaring lockdown to combat the short and long term effects of the COVID-19 on women, children, migrants, labour and old aged persons etc. For this purpose large scale consultations with Non-governmental organisations especially with governments, civil society and women rights bodies was needed to be initiated.

Also, norms of quarantine were violated at several places in the country. Influential people infected with virus like politicians, businessman, and film actors were seen of avoiding quarantine and social distancing norms advised to them or their family members. Poor medical facilities in hospitals and in institutional quarantine also raised several questions which need to be answered. It is important that governments implement social-distancing and quarantine policies fairly and with as more involvement in planning as possible. The social,

economic and legal considerations are required to be taken into account well in advance so that public could accept strategies of lockdown and quarantine as a means to slow disease transmission.

The Centre and State relations to deal with any pandemic is significant. The roles of governments need to be defined clearly for the successful prevention of disease transmission. Archaic labour and migrant laws, contract laws, property laws, rent laws, women, children and old aged person related laws are required to be modified keeping in view the problems which these categories of people often faces amid outbreak of any communicable disease.

Besides, the archaic Epidemic Disease Act, 1897 should be obliterated immediately as this law does suit to deal with pandemic of serious nature. The Disaster Management Act, 2005 should also be amended keeping in view the difficulties faced while dealing with prevention of coronavirus pandemic. A specific law should be enacted immediately to deal with communicable diseases, lockdowns and quarantine strategies so that social, economic and legal problems associated with the outbreak of any virus can be minimised. The social, economic and legal considerations can be incorporated into pandemic preparedness plans, laws, policies and decisions making.