

# IMPACT OF COVID-19 PANDEMIC ON INDIAN JUDICIARY

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## ABSTRACT

*Covid-19 popularly known as corona virus is highly infectious virus which caused huge destruction to human life. It changed the whole scenario globally in terms of economy, tourism industry, supply chain disruption, trade and commerce leaving huge population jobless. Initially this virus was spread in Wuhan, China but now it engulfed the whole world. From senior citizens down to the children it has caused large number of deaths. Within a short period of time the outbreak of corona was observed and it has turned in to "Pandemic". As it affected each and every sector, in the same way it affected our legal system too. Many major steps are being taken by our judiciary so as to deal with is pandemic like many changes are being made in the existing laws and also many rules and regulations are formulated. Our government also issued certain guidelines to deal with the situation of lockdown. This pandemic has created hue and cry across the globe. India is battling with this virus in a systematic way and certain laws are already in existence to deal with corona.*

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## INTRODUCTION

With the passage of time, human life flourished in each and every sector, so did infectious disease. People lived with each other in the spirit of brotherhood and also in their close contact with animals too. There was very less awareness of hygiene, cleanliness, nutrition and immunity. Due to this, the diseases found their way to thrive as a result, many epidemics took the lives of innocent people. This is all due to lack of awareness. Many of the diseases took horrible face because of no treatment and due to their contagious form.

One of them was Plague of Justinian that arrived in Constantinople, the capital of the Byzantine Empire, in 541 CE. It was caused by black rats, they were the carriers of infections. They feasted on the grains and the grains were consumed by the public causing horrifying deaths. Another form of plague was known as Bubonic Plague that was also caused by rats. Other epidemics like Smallpox, Cholera, Influenza etc. and the most recent is Covid-19 which is very new to people. It spread at very high speed globally affecting each and every country of the world causing havoc. People are suffering badly and the deaths caused many families to lose their loved ones.<sup>1</sup>

In the population of 136 crores(approx) it is very difficult for the government to handle public and make regulations to deal them. As per the directions of WHO we can only take precautions like social distancing, wearing masks, gloves, maintaining hygiene etc. to deal with this situation.

## COVID-19 AND FORCE MAJEURE

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<sup>1</sup> <https://www.history.com/news/pandemics-end-plague-cholera-black-death-smallpox>

'Force Majeure' is defined as a situation of not fulfilling of a contract due to unforeseen circumstances or the act of god. Those circumstances are out of human intervention due to which the performance of the contract is being affected. Now, here the question arises that whether Covid-19 comes within the ambit of 'Act of God'? The answer is still ambiguous in Indian courts. In courts of United States of America and United Kingdom the pandemics/epidemics comes within the definition of 'Act of God'. In one of the case, *Lakeman v. Pollard*<sup>2</sup>, it was held that if a labourer leaves his job due to the fear of contracting an infectious disease of Cholera then it would not amount to the breach of contract. The court considered the spread of a pandemic is an 'Act of God' therefore the labourer cannot be charged with the breach of contract.<sup>3</sup>

Section 32 of Indian Contract Act, 1972, deals with contingent contracts and states that Contingent contracts to do or not to do anything if an uncertain future event happens, cannot be enforced by law unless and until that event has happened. If the event becomes impossible, such contracts become void and Section 56 of the said act states that 'an agreement to do an act impossible in itself is void'.

But does Covid-19 qualifies the conditions of force majeure? The Government of India has also formulated many guidelines to deal with this situation and to bring stability in export import market, supply chain management etc. in one of the notification dated 19-2-2020, it was being mentioned that any disruptions to supply chain due to the spread of Covid-19 is exempted from the breach of contract clause. The spread of Covid-19 is considered to be the natural calamity. It was further mentioned that force majeure clause does not totally exempt from the liability but it only suspends it temporarily.

Not only in Covid-19 affected the businesses but also it affected the litigation and arbitration proceedings. The Indian courts opted the online submission of arguments, only hearing urgent matters and e-filing provisions being also formulated to meet the ends of justice. Under A.141 & 142 of the Constitution of India, a three-judge bench comprising Chief Justice S A Bobde, Justice L. Nageswara Rao and Justice Surya Kant, in the exercise of inherent powers, the extension was given in filing petitions/applications/suits/ appeals/all other proceedings before all Courts, Tribunals and authorities across the country w.e.f. 15th March, 2020 till further orders. In other words, the period beginning 15th March 2020 till further orders shall be excluded while calculating limitation.<sup>4</sup> The same process is being followed by other High Courts, NCLAT and other subordinate courts were also closed during the lockdown period.

in United Kingdom, the jury trials were also being suspended and only urgent matters were dealt accordingly. Various other methods were also adopted such as audio, video hearings and non-urgent hearings being postponed.

Certain changes were also made in Insolvency and Bankruptcy Code, 2016, under Section 4, the Central Government exercising its power increased the threshold of rupees one lakh for triggering insolvency to rupees one crore to protect many companies from becoming insolvent. With the outburst of this pandemic many companies are facing financial crises and the economy of the country is declining that is why such provision is made to protect large companies to lose their market value.

Moreover, various laws and regulations also being frame deal with this.

Certain provisions that are being mentioned are-

**Section 271 of the Indian Penal Code, 1860** - "Disobedience to quarantine rule. This section clearly says that whosoever disobeys the quarantine rule shall be punished with imprisonment or fine or both.

**Section 269 of the Indian Penal Code, 1860** - "Negligent act likely to spread infection of disease dangerous to life. This section applies to those who negligently act to spread the virus. They shall be penalized with imprisonment or fine or both.

<sup>2</sup> 43 Me 463 (1857)

<sup>3</sup> <https://corporate.cyrilamarchandblogs.com/2020/04/force-majeure-in-the-times-of-covid-19/>

<sup>4</sup> <https://www.mondaq.com/india/litigation-contracts-and-force-majeure/918068/functioning-of-courts-in-india-and-abroad-during-covid-19-pandemic>

**Section 270 of the Indian Penal Code, 1860-** “Malignant act likely to spread infection of disease dangerous to life. This law is for those who know the consequence of their actions could lead to the spread of the virus and still choose to do such an act shall be penalized.

**Section 188 of Indian Penal Code** - “Section 188 of the Indian Penal Code prescribes punishment for disobeying an order duly promulgated by a public servant.” The above-mentioned law is for those defaulters who disobey the orders of the public servants and roam around aimlessly during the lockdown.

**Section 144 of the Criminal Procedure Code** “Section 144 of Criminal Procedure Code (CrPC) imposes power to the executive magistrate to restrict particular or a group of persons residing in a particular area while visiting a certain place or area.” This is one of the measure to support and implementing social distancing.

**Schedule 1 of the Essential services act** provides a list of services in the category of essential that would be provided during the period of lockdown. During lockdown, central government has allowed the flow of essential services.

Many provisions are being implemented in The Epidemic Diseases Act, 1897 and Disaster Management Act, 2005 & National Disaster Management Guidelines, 2008 deals with the management of biological disasters.<sup>5</sup>

## Conclusion

Covid-19 has such a deteriorating socio economic consequences. The economy of the globe toppled down drastically resulting in jobless youth. The virus is unknown to human on earth that’s why it took so long time to access its risks as well as its different strains. There is no vaccine of corona but only the preventive measures can save humanity. This pandemic affected every sector of economy. Our judiciary took several steps to deal with this unusual situation. The matters of the court were held on video conferencing and only the most important matters were to be taken in person. Moreover this virus has made the parties to perform contractual obligations more difficult. These force majeure events are beyond the control of human therefore, it became impossible to perform the contractual obligations of the parties. So in this alarming situation the legal systems of different countries acted in different manners. The governments of all the nations has followed the guidelines issued by WHO. Constant efforts are being made to discover the vaccine to get rid of Covid-19.

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<sup>5</sup> <https://www.lloydlawcollege.edu.in/blog/law-related-covid-19-india.html>

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