**DISASTER LAW: COVID 19**

**DEEPALI MAHAPATRA**

**ABSTRACT:**

The epidemic disease act was enacted in 1897 and needs to be repealed. the act does not provide any power to the centre to intervene in biological emergencies. it has to be substituted by an act which takes care of the prevailing and foreseeable public health needs, including emergencies such as bt (bioterrorism) attack and use of biological weapons by an adversary, cross border issues and international spread of diseases”

**INTRODUCTION:**

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rule of law is the most organic and the oldest principle of “governance”. it forms the

core of the administrative law. probably, a.v.dicey also shelled out “rule of law” as

The French revolution gave the slogan of “liberty, equality, fraternity”, but it is “rule of law” which cemented the path for the realisation of this glorious slogan. rule of law can be loosely understood as the dominance of law over an individual. it refers to the system in which there prevails the “supremacy of law”.

rule of law as : [it] means in the first place, the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, of prerogative, or even of wide discretionary authority on the part of the government .... it means, again, equality before the law, or the equal subjection of all classes to the ordinary law of the land administered by the ordinary courts ... [and],

lastly, that, in short, the principles of private law has with us been by the action of the courts and parliament so extended as to determine the position of the crown and of its servants; thus the constitution is the result of the ordinary law of the land.(dicey:1961, 120)

**COVID19: A BLACK SHADOW**

the disaster management act also casts a duty on the states to follow the directions of the ndma as mandated under section 38 of the disaster management act. the declaration of an emergency would have been counterproductive, according to senior advocate siddartha luthra. it would have meant that all powers would have vested with the centre whereas this is a situation where the state government’s response is critical, he said. “health is under state. policing is under state governments. it’s only when the state governments aren’t cooperating or a state government has been ineffective, that’s when an emergency should be declared,” luthra told bloombergquint over the phone. “an emergency needn’t be declared for the whole country.”the disaster management act, 2005 gives the central government powers to take quick policy decisions and impose restrictions on people to manage a disaster. here’s an explainer on what the law entails for people and governments in these difficult times.

**What were the sections under which covid-19 was declared a national disaster?**

under sections 6 and 10 of the law, pm modi, who is also chairperson of the authority, declared covid-19 as a national disaster so that the entire country has uniform lockdown regulations, which are easier to implement, especially on which services and functions are allowed and what are not. for instance, before the national lockdown was enforced under the law, state specific lockdowns and a lockdown of 82 districts by the federal government -- both under the epidemics law -- were inconsistent about the use of private vehicles. under dma, states are required to implement the national plans.

**Are penalties under the law stricter than under indian penal code?**

yes, as the law provides for detention of any person for defying government orders including government officials and directors of the private companies. the jail term prescribed is one year for first offence and two years for the second. the officials notified as nodal officers -- district magistrates in this case -- can summon anyone to perform duties for disaster mitigation and relief. a department head could be held responsible for any dereliction of duty by the personnel reporting to him. a complaint against any official can be made only to chairpersons of national, state or district disaster management authorities.

**CONCLUSION**;

never before has the epidemic law been invoked to control a pandemic. that’s not surprising. for instance, to act against anyone defying orders under the law a warrant issued by a court is needed. the law also does not have provisions to enforce mandatory quarantines or social distancing, to provide for quick release of money, or to take over government or private buildings to provide relief. it gives powers to health officials but very little to the law enforcement agencies, which are now implementing complete lockdown. that’s why this lockdown had to be under dma.

**CASES IN INDIA**



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