



Image: internet

The national lockdown has been the government's strategy so far to combat the COVID-19 pandemic. During these strenuous 7 weeks, we have endured on the terms - "lockdown", "quarantine" and "isolation".

While our WhatsApp chats are showered with desi cures, pro medical tips & corona memes, it is worth enquiring into the underlying legislative soundness of these concepts. Especially, when they have imposed severe restriction on our fundamental rights of free movement, peaceful assembly, and to carry on occupation, trade & business as guaranteed under Article 19 of the Indian Constitution.

THE LOCKDOWN

Will you believe, the common phrase curtailing our freedom has not been defined under Indian law?

However, the closest understanding of 'Lockdown' can be construed from a four-and-a-half sections strong 1897 vintage enactment- The Epidemic Diseases Act (EDA). This law was one of the most hurriedly drafted legislations to stonewall the bubonic plague that devastated life, forcing people to migrate out of the cities like the present time. The Section 2 and 2A of the EDA empower the State and Central governments to take necessary steps in the situation of an epidemic to control its outbreak, even if the steps are not mentioned in any law practice or theory in the country. Thus, came the Maharashtra Epidemic Diseases COVID-19 Regulations, 2020 and other respective State Regulations describing steps to be taken for prevention.

Further the Disaster Management Act, 2005 (DMA) used to enforce the lockdown; provided for an administrative framework to take measures to cater situations such as an earthquake, flood or fire rather than a disease like COVID-19. Therefore, on March 14, the Home Ministry declared the Coronavirus outbreak as a "notified disaster", thus, bringing into play the provisions of the DMA. It further allowed usage of State Disaster Response Fund (SDRF) to combat the spread of the virus.

The quarantine of visitors in India is governed by the Air Craft Act and Indian Aircraft rules, wherein "Quarantine" means the restriction of activities and/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. Similar restrictions are found under the Indian Port Health Rules 1955, framed under the Indian Port Act, for passenger ships, cargo ships, and cruise ships.

Lockdown is not the same as curfew. The major difference between the two is that, in lockdown, state enforcement authorities like the police can enforce a lockdown through the mechanism provided under various laws but cannot arrest persons for not following the lockdown without the permission of the competent court. However, People who violate the lockdown orders can be punished under the following sections of the Indian Penal Code

Sec 188	Disobedience to order duly promulgated by public servant	Imprisonment up to six months, or fine up to ₹1,000, or both
Sec 269	Negligent act likely to spread infection of disease dangerous to life	Imprisonment up to six months, or fine, or both
Sec 270	Malignant act likely to spread infection of disease dangerous to life	Imprisonment up to two years, or fine, or both
Sec 271	Knowingly disobeying any quarantine rule	Imprisonment up to six months, or fine, or both

Once these provisions are invoked, the enforcement authorities are well within their powers to arrest the person involved.

So if you saw someone breaking the lockdown rules, would you report them? Will it be a civic duty - or spying on your neighbours? And what determines this difference?

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