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COVID-19- A VISUAL GUIDE TO OUTBREAK

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ABSTRACT

This article is upon corona virus pandemic which throws a light on how dangerous or exotic this pandemic can be for the individual and as a state. My article is divided in the three sub parts through which the reader can have an idea that to which sector and how much this virus can affect mostly. What is a Force Majeure and how this clause can be used in making contracts legal and protect the parties, How the fake news is scaring and affecting the population in a negative way, the rights under medical law of patient, all these things are covered in this article? And the conclusion shows how to deal with this big problematic situation.

INTRODUCTION**WHAT IS COVID 19?**

The whole family of corona virus is named because corona means crown, and so this refers to the way that the virus looks under microscope.

Corona virus, a life-threatening virus that has now spread in almost every part of the world. Peoples are fighting with this but still no major breakthrough transpired. Doctors are coming forward as life- Savior. People who are suffering with corona virus have very low chance of survival. In Italy, this pandemic had crushed the entire machinery of the country. Approximately, more than 9,844,322 cases were recorded and approximately 142,841 deaths are recorded. Every country is trying its best for saving the lives of their countrymen. This all has started with Wuhan, China and now whole world is in its Grip. Worldwide approximately 71,785,420 cases are reported and 1,607,384 are reported dead, and figures are still increasing. Commenting on this, Former president of USA had given this pandemic a specific name 'Chinese-virus' blaming china for the spread of this virus, which had hardly been opposed by Xi-jinping.

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China first reported to WHO country office in china on 31 December 2019. The outbreak was declared a Public Health Emergency of International Concern on 30 January 2020. On 11 February 2020, WHO announced a name for the new corona virus disease; COVID 19.

A 2019 novel named corona virus is getting too much attention after the spread of this pandemic because it's a new kind of corona virus and doctors claimed they had not seen this in humans before. The theory given in the book is that it may have jumped from an animal species into the humans and then begun spreading.

When a new virus emerges, we got to know this with time that how much damage it can cause to human population and one of the questions that we often are very curious to know that, how does it transmit from one person to other?

Most viruses spread through droplets that come out when people cough and sneeze, and stay aloft in the air or surfaces. But in the present scenario when we talk about corona virus, doctors had said that they didn't know exactly that whether it is droplet or airborne transmission. Seeing the situation of every country, which is suffering from this pandemic, the only thing which can save us from being infected through the virus is, Precaution.

Apprehending the consequential condition of the present time, WHO has given certain guidelines to stop the spread of this virus:

- 1; Wash hands frequently
- 2; Avoid touching your eyes, Mouth and Nose
- 3; Cover your mouth with the bend of your elbow or tissue while coughing.
- 4; Avoid crowded places
- 5; Stay aware of the latest information from WHO
- 6; Avoid traveling.

My article is divided in three questions which mostly covers how much damage it can cause; -

- 1 Corona virus, Force Majeure and effects on contracts
- 2 Fake news
- 3 Medical laws and corona virus

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Corona virus, Force Majeure and effects on Contracts

What is force majeure?

We can refer to the situation where there is irresistible compulsion or unforeseeable situations, the situation where we can't predict anything. It can also be called as an act of God. Virus affecting the economy, can also be the major reason of declaring it as a force majeure, china is the world's largest importer of crude oil and iron ore, on the other side, China has been the largest exporter of steel in the world, companies are facing difficulty to meet their contractual obligations and in response to that difficulty, some companies and Chinese government started issuing the FM certificates to the all those companies to which they are unable to meet the certain guidelines of the contract. This might be an attempt from the side of Chinese government to protect themselves from breach of contract claims.

There are two types of Force Majeure:-

- 1) Political Force Majeure- which deals with the changes in political and legal environment
- 2) Non- political Force Majeure-: deals with the physical risk which can impact on business and project.

It does not spontaneously become a FM situation and its classification mostly depends on the language of the particular contract. In fin min memorandum it is mentioned that any disruption in supply chains due to corona virus will be considered as natural calamity and Force Majeure clause can be invoked in such situations. And in the case of Transco plc², the Court has also observed that the act of God can also be covered under natural disaster with "no human Agency". Force majeure can obviously be the subject-matter of a whole semester. At one level everyone is very optimistic about the phrase frustration of force majeure as they are interchangeably cold as if it would become the mantra to escape from all the contractual obligations after and just before Covid-19.

In DhanrajamalGobindram vs Shamji Kalidas And Co.³ the Supreme Court has told the difference between Act of God / vis major and Force Majeure. The expression "force majeure" is not a mere French version of the Latin expression "vis major". It is undoubtedly a term of

²Transco plc v Stockport Metropolitan Borough Council 2003, UKHL 61

³AIR 1961 SC 1285, (1962) 64 BOMLR 169, 1961 3 SCR 1029

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wider import. The reference made to "force majeure" is the intention to save the performing party from the consequences of anything over which he has no control.

There are three important principles that people must understand before invoking this clause is;

- 1) Whether one can prove the impossibility of the contract.
- 2) The temporary test, whether or not it is temporary in nature
- 3) The price aspect that the price is not feasible for one's business
- 4) The alternative means of performance, this is available even though the price increases

Third one is the very prominent topic which a lot of people would like to invoke force Majeure on, and according to me it is the weakest point and the fourth point links with price and temporariness.

Certain questions are terrifying the owners that if their company contracts didn't have Force Majeure clause or if it's there whether their company is safe or not? The extent of damage it has caused to the economies of the states in the world was unpredictable and what next level it is going to cross to increase the damage is still unpredictable. Let me tell you the feasible solutions if your company does not have the Force Majeure clause? In the case of Scottsdale partners Vs. Kuhn farm Mach. Inc.,⁴ an Arizona court held that if the provision on Force Majeure Clause is absent in the contract other defenses may be available such as, impracticality or impossibility.

The situation is really dismaying, but it can shield with the doctrine of frustration described under the section of 56 of Indian Contract Act, 1872. In a land mark case of Energy watchdog v Central Electricity regulatory Commission⁵, the principal point was that the price of Indonesian coal by Indonesian law increased clearly an unforeseen event clearly a frustrating even clearly not foreseeable of the contract. Frustration is defined in the case of Davis Contractors ltd. VS Fareham UDC⁶, the Court defined the frustration as Frustration Occurs whenever the law recognizes that without the default of either party a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render

⁴ Scottsdale Rd. Gen. Partners v. Kuhn Farm Mach., Inc., 341, 909 P.2d 408 (Ct. App. 1995)

⁵Civil Appeal Nos.5399-5400 of 2016

⁶ Davis contractors Ltd. Vs Fareham UDC [1956] AC 696

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it a thing radically different from that which was undertaken by the contract. It is increased so much as to render the supply of coal which was the basis of the supply of electricity in India, completely unviable and was virtually proof in court that one unit of cost of coal would be more than the carrot fixed in India, the court citing the very principle have senses to the uncertainty. Justice R.F Nariman of the Supreme Court opined that the event leading to frustration which is relatable to an express or implied clause in a contract is governed by section 32 of the act and if it occurs de hors (outside the scope of) the contract it is dealt with the rule of positive law (mentioned above). Under the prevailing circumstances, reliance on section 54 of the act depends on following conditions;

- : The parties should have a valid contract between them
- : Some part of the contract should be left to be performed
- : After entering into the contract, due to some conditions it should become impossible to perform

When a Frustration applies the parties are excused from all further performances and are not liable for damages for non- performances. In the case of Gujarat State Petroleum Ltd. Vs. Yemen⁷ the question arose before the court was that on what basis occurrence of “Force Majeure” events could excuse a party from performing its Contractual obligation. The Court opined that the Force Majeure clause required a casual nexus between the event and Non-performance.

An example to illustrate the concept of force majeure;

Suppose, Company A entered in a contract with Company B for the supply of non- essential goods and the contract has the special reference to the occurrence of a Force Majeure event and consequences of the same. The ambit of force majeure provision in the supply contract includes the acts and orders of government and the contract states that whenever a situation force majeure event will transpire, notice of the same will be given by either party to other and subsequently the obligation Company A to supply the goods and Company B to make the payment for the same shall be deferred for a specific period of time.

Relating it to the status quo, since the government imposed the lockdown, Company B has will

⁷ Gujarat State Petroleum Corporation Limited and Ors. v Yemen ICC Case No 19299/MCP, IIC 840 (2015), 10th July 2015, International Chamber of Commerce; International Court of Arbitration

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send the notice informing Company A that since the lockdown is beyond the control of Company B and therefore, the clause of Force Majeure will trigger and all obligations of Company A and Company B will be deferred for a period during which the order for lockdown continues to be in the effect.

The burden of proof lies on the shoulder of that party which asserts the Force Majeure defense to demonstrate the existence of force majeure.

FAKE NEWS

The WHO recently stated that world governments are fighting a battle on two fronts, one from corona virus and large influx of false information, which are increasing at alarming pace.

Where countries are trying to recover from this pandemic this fake news spreading on social media apps like WhatsApp, Facebook are increasing the fear in the hearts of people. People are doing many worthless activities which not only can be a threat to them but also a threat to the people who are around them. Fake news is worsening the situation. What a hot temperature and drinking hot water can save you from being infected by corona virus, herbal cures, and communal content pictures edited with government notifications are some examples how the misinformation and rumors spread by just one click of sharing through these social media applications. A Supreme Court lawyer Virag Gupta said “During this period of lockdown, the matter of the main concern is India’s dependence on the foreign communication network. He further stated that the country will be able to come out from this pandemic, but if the social media companies didn’t stop to lay out the Fake news then India will soon enter into the era of Data Colonialism. Epidemic diseases act 1987 and disaster management act 2005 are being invoked by the state government and police officials to control the spread of corona virus.” With increasing pressure by Indian government on these social media application owners, they are trying to curb all the corona virus related news. People are selling their fake products on social media and to deal with it, applications are removing those posts. A spokesperson from Facebook India spoke on this matter stating that “he said that if they see anyone selling their fake products related to cure the corona virus on Facebook or Instagram, they remove such kind of stuffs from their applications. Not only selling the products he said that they have banned all the advertisement and commerce listing that says that it will prevent persons to get affected by the corona virus or to fully cure them from the said virus” the spread of fake news has increased

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to such a level that it is beyond the control of the state governments and to reduce the percentage it started arresting people spreading the fake news. Recently news was busted that government is giving rupees 3 lakhs to every patient who is suffering with Covid-19.

In Alakh Alok Srivastava Vs Union of India⁸ on 31st March 2020 the Supreme Court recognized the problems of fake news in India passed an order asking the State governments to comply with the directions issued by the Centre to curb the menace of fake news.

List of fake news:

1: Photos of 2004 Tsunami victims resurfaces as photo of Covid-19 victims

2: South Sudan's chief justice, family refused testing for Corona virus

Rum reference is made to "force majeure", the intention is to save the performing party from the consequences of anything over which he has no control ours on WhatsApp claims that the CJI's son is tested positive with the virus and even then, the family refused for testing.

3: Neem leaves can cure the corona virus

Till yet no cure is available for corona virus, later India's ministry of health claim it as myth.

4: Ganga water can cure Corona virus

Spreading fake news on social media applications like WhatsApp and Facebook, later on it was claimed as myth on the official account of WhatsApp India.

5: Helicopter spray to Eradicate Corona virus

6: Homeopathic medicines for corona virus

No homeopathic medicine has not yet discovered to cure the Disease, there are numerous assumptions that are flawed.

7: Garlic water to Treat Corona virus.

Consuming garlic is healthy, but it is not even related to cure Corona virus.

8: Cure for corona virus was written in school textbooks

Image from class 12th textbooks got viral where a medicine named was mentioned that it can cure the corona virus, but later on it was confirmed that corona virus is not for the COVID-19.

9: Children in Senegal did not die after receiving 'corona virus vaccine'

While the vaccine didn't not exist yet.

10: South African president asked foreigners

Wrong information had been circulated online about the country's pandemic related lockdown.

⁸ Writ Petition (Civil) No.468/2020

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11: Viral posts falsely claim corona virus vaccine, drugs developed in Philippines

Philippines authorities had warned the public against the online misinformation.

12: Colors coded soaps and handkerchiefs to prevent corona virus

A misleading listicle contains information to cure the corona virus mentions, red colored soap, CFL light bulbs and white handkerchiefs.

The sole thing from which we can prevent ourselves to get affected from corona virus is that we have to believe only on the guidelines given by the World Health Organizations.

Like covering our mouth, hands and maintain a distance of 6 feet from the others as guidelines given by WHO.

Spreading Fake News is a punishable offence under section 505(1)(B) of Indian Penal Code, 1860. Section 505(1)(B)⁹ of the IPC deals with the spreading of false and mischievous content that results in fear or alarm to the public, or to any section of the public and the offender can be punished for maximum 6 years of imprisonment under this section.

MEDICAL LAWS AND CORONA VIRUS

Jeremy Samuel Faust, an emergency physician and an instructor at Harvard Medical School, suggested that an urgent executive order to relax the legal standard of medical malpractices would be dramatically instrumental in freeing up hospital beds for Covid-19 treatments. Dr. Faust, in his Washington Post article, has described the working rationale of the doctors and how their inclination has shifted from keeping a stable patient in hospital observation to discharging fewer sick patients for admitting critically ill ones.¹⁰

In a PIL filed, which was based on a complaint received about unhygienic conditions in government hospitals. The wife of a person deceased due to COVID complained that her husband died due to negligence of medical staff and she herself was being treated at that hospital for COVID 19. The covid-19 crisis has highlighted on the three fundamentals of using law of health. The court mentioned that, "We have no reason to believe that the State of Uttar Pradesh has not taken proper care to prepare a list of all who have arrived from outside. We have also no reason to believe that the State of Uttar Pradesh is not providing proper board and

⁹with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility;

¹⁰ <https://www.mondaq.com/india/healthcare/979324/the-law-medical-malpractice-and-a-global-pandemic>
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lodging to persons who have come from outside the State of Uttar Pradesh. However, we sincerely believe that whatever work is being done by the State of Uttar Pradesh may be done in a more organized manner.”¹¹

The Gujarat High Court took Suo moto cognizance to issue directions and monitor the measures taken by state government in wake of COVID19, while exercising continuous mandamus. AT the first hearing, the court issued certain directions to the government with respect to sanitizing premises and to Bar Association as well to avoid public gatherings. The order was concluded stating, “The Government knows its obligations towards its citizens very well and should be efficient in discharging its duties. We would like to observe that the State Government has taken up this litigation in Public Interest very seriously. All that is now required is to remain vigilant, careful and active.”¹²

First, our interdependency

Second, the accountability we owe to the most accountable among us and

Third; our global interconnectedness.

First, our lives, well-being, and our health in this time of crisis are inherently interdependent. This is true at all times but we don't usually experience it that accurately. Our and the roles and responsibility of others as escalators or potential escalators of the virus and as having individual needs of a health system that has limited capacity in manpower, in equipment and in money and we have quickly jumped into that. What we do affects others very exceedingly; this is what law for health is really about synchronizing the behavior of linkage the chains of people. We are competent of both doing synchronized good for one another and significant harm whether intentionally or unintentionally.

Second, we are individual responsible to the most accountable among us. We are seeing this in our cognizance of the vulnerability older members of our community and clan with pre-existing health conditions to the virus itself and the exigency to take particular care of them. But it's much more than this; it's also the effects of this remarkable social and economic disarray across

¹¹ Inhuman Condition at Quarantine Centres And for Providing Better Treatment to Corona Positive (PIL No. 574/2020)

¹²SUO MOTU: Precautionary Measures in The Wake of Pandemic of Corona Virus (COVID-19)

our society which is being experienced differently by different clans and groups. We have long known of the inconsistency in health and who become unwell and in access to treatment and ultimate health results and this will over time likely to deplete in a indistinguishable manner for covid-19 individuals and families will have very contrasting experience depending on whether they have and are able to support their jobs, have savings they can draw on, where they live including whether they have a residence, their gender, their nationality, the safety of their correspondence, their mental health, whether they have any social connections. While we see we are in an astounding collective pandemic, we don't experience it collectively or in the similar way. This is another of the peremptory of public health and a law for a health at the similar time is trying to do the better for the health of the entire population we need to look after the most accountable.

Third, we are globally inter-related. Obviously, we have observed this virus has spread as people have make headway across borders but we are seeing both the relatedness and the disruption to connections in ma. Obviously, we have observed this virus has spread as people have make headway across borders but we are seeing both the relatedness and the disruption to connections in many other ways. Countries are possessing to an essential medical supply that we critically needed by other countries such as masks, gowns, gloves, sterilizers etc. universally supply chains have been pended, the norms of international trades have been shattered and at the same time scientists are working across countries to track and understand the virus to share their occurrence in controlling it and to develop a vaccine as soon as possible. Countries are closing their borders and distinctly on protecting their own clans, as this is understandable in this era of modern political system. We cannot slack the vision of the situation in other places of the world, particularly those where health systems and social and economic support system are slightly able to react to the problems occurred due to this pandemic.

Some questions are still ticking in my head that are unanswered and it is very important to havethe answer of all those questions.

- 1.Where there is a need of medical equipment and supplies, will these things be there when needed? As there are still some states struggling to have sufficient number of beds for the patients.
- 2.After looking at the current scenario, the health system is trying to do it's best to cure the patients, still increasing the number of patients and deaths, make it stand in dock.

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3. Then, there is one more question that when vaccine will be developed, will some countries be left behind? As the economic system of some countries are at its lowest state. Will the vaccine even be accessed by their denizens?

Under section 361 of the PHS (Public health service) Act, the HHS Secretary is authorized to take measures to prevent the entry and spread of communicable diseases from foreign countries into the US and between states. The authority for carrying out these functions on a daily basis is delegated to the Centers for Disease Control and Prevention (CDC), Division of Global Migration and Quarantine.

CONCLUSION

Above mentioned are the factors this virus is affecting mostly. Human life is at risk and peoples are struggling to live. The resolutions we are making now or about to make in the near future, pondering about both the cases, the question arises that how are we going to put this all back together. Immediate testing will continue to be held for everyone just to have check on the increasing number of the patients.

Amelioration from covid-19 is going to take a long time, more than what we expected, both for individual countries and globally, so a 2P formula to save yourself physically and mentally i.e., Precaution and Patience. It will take time to go back to the same as it used to be but, we will surely. At the time when we all are scared with this instantaneous health crisis; we need to think our values that will guide us to overcome in this difficult time and will help us to face the difficult time ahead as both national and global denizens.