

A study on the Law relating to Public Health and Bioterrorism with special reference to Public Health (prevention, control and management of epidemics, bioterrorism and disasters) Bill, 2017

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Abstract

The public health is a great concern in the present condition of the society. We talk about human rights and environment protection. Presently the new challenge before the National and International entities is Bioterrorism. It refers to the intentional use of bacteria, viruses or toxins etc. to cause serious harms to the human body, animals or plants resulting to their death or disease to fulfil the political objectives. The agents of this bioterrorism can be altered to make it more effective and dangerously harmful. They can be engineered to resist current medications. This type of diseases may spread in various ways for example through air, water, food, infected persons etc. In India, recently a new law called public health law has been introduced to control the bioterrorism. The entire law deals with controlling epidemics, bioterrorism and disasters. The bio hazardous material refers to any agent which is highly infectious in nature which may cause harm to human being as well as the entire environment. The contravention of this public health law will attract punitive action.

Keywords: public health, bioterrorism, epidemics, disasters, prevention, contravention

Introduction

The menace of bioterrorism has become a sensitive issue for the past few years. The history has shown that exposure to even a small quantities of a biological agent can be fatal. In India the public health (prevention, control and management of epidemics, bioterrorism and disasters) bill, 2017 known as 'Public health Law' has been introduced by the Ministry of health and family welfare to the public and other stakeholders for the purpose of generating comments and objections on February 13, 2017. The Ministry had fix the deadline for receiving comments and other suggestions by March 5, 2017. By the name of this public health Law it can be easily understood that the bill has been introduced for the purpose of appropriate management, control and prevention of currents of epidemics, bioterrorism and disasters. It is true that prior to this bill, no such laws had been introduced in Indian soil for the purpose of controlling bioterrorism. However, it is important to mention here that, though it is a new law to be introduced, but how it is going to be effective for controlling the epidemics, bioterrorism and disasters can be witnessed with the passage of time. In this regard, to understand the significance of this public at law, it is better to study the important provisions of this public health bill.

Important Definitions

Section 2 of the Public health Law defines various expressions for the purpose of proper understanding of the entire law connected with controlling epidemics, bioterrorism and disasters. The expression 'bio hazardous material' has been defined under this public health Law which means any agent which is highly infectious in nature or any biological material which is highly hazardous in character not only provides potential risk to the human but also to the entire environment

[1]. The public health law also defines the expression 'bioterrorism' which includes use of biological material with an intention to cause disease or death to animals, human beings or plants with the help of micro organisms or other toxins in any form or in any medium [2]. The expression 'clinical establishment' and also been defined under the Public health Law. It includes maternity home, nursing home, clinic, dispensary, a hospital. It also includes a diagnosis or treatment of diseases where pathological, genetic, bacteriological and biochemical services are undertaken [3]. 'Decontamination' has been defined under the Public health Law and which means that the elimination of an infection or infectious agent or toxic

¹ "bio-hazardous material" means any infectious agent or hazardous biological material that presents a risk or potential risk to the health of humans, animals, plants or environment; [Sec 2 (a)]

² "bio-terrorism" includes intentional use of biological agents to cause disease or death of human beings or any animal or plant through dissemination of microorganisms or toxins in and by any medium or any means; [Sec 2 (b)]

³ "clinical establishment" includes,- (i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution by whatever name called that offers services, facilities with beds requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine; (ii) a place established as an independent entity or part of an establishment as defined in d (i) above in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, bio-chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipments, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not, and shall include a clinical establishment owned, controlled or managed by a) the Government or a department of the Government b) a trust, whether public or private; c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government; d) a local authority; and e) a single doctor, but does not include the clinical establishments owned, controlled or managed by the Armed Forces; [Sec 2 (c)]

agent with the help of a particular health measures for the purpose of removal of public health the risk ^[4]. The Public health Law defines the expression ‘disaster’ which means a calamity or grave occurrence of catastrophic or miss have either natural way or man-made event, which will damage the property environment and health of animal and or human beings ^[5]. The expression ‘disinfection’ has also been defined under the Public health Law, which means a process or method by which health measures are undertaken for the purpose of controlling and filling infectious agents available in animal or human body ^[6]. The Public health Law defines the expression ‘disinsection’ which means a method or process by which insect vectors are controlled and killed with the help of health measures, so that there will be control of spreading of diseases ^[7]. The expression ‘epidemic’ has been explained under the Public health Law as the currents in a region or community of a particular type of illness or specific health related behaviour which is more than of normal expectancy ^[8]. Similarly, the expression ‘epidemic prone disease’ means such a disease as notified by the central government ^[9]. ‘Outbreak’ means a disease of appeared in a region in the form of epidemic ^[10]. The expression ‘potential bioterrorism agent’ means those agents as notified by the central government in the second schedule of public health bill, 2017 ^[11]. The expression ‘public health emergency’ means immediate danger to public health with the fear of spreading the infectious agent of a contagious disease having specific fear of spreading epidemic disease to animal, human beings or environment ^[12]. ‘Public health emergency of international concern’ means an event which is not ordinarily

in nature and can be judged by the provisions of international health regulation of World Health Organisation ^[13]. Public health laws of defines the expression ‘public health emergency of national concern’, which means those public health issues in the form of emergency as notified and specified by the central government ^[14]. ‘Quarantine’ has also been defined under the Public health Law, which means controlling the spreading of epidemic diseases while restricting the activities of animal/human being who are already infected with such diseases by way of separation ^[15]. ‘Social distancing’ is an expression defined by the Public health Law as a practice connected with public health measure, which control the spread of infection by maintaining a scientific distance between the individuals ^[16]. The expression ‘vector’ has been defined under this public law which means any living carrier or insect that carries infections or infectious agents and transports from one individual to another individual by which the non-infected individual gets infected ^[17]. In order to understand the efficacy of the Public health Law, it would be wise to study the relevant but important provisions from this public health bill.

Public Health Measures

The powers of the State Government or the Union Territories and Districts/Local Authority

under section 3 of the Public health Law it is clearly mentioned that the state government or the local authority can issue orders for prevention and control of epidemics or bioterrorism if in the opinion of such government or local authority there is a public health emergency ^[18]. Such orders

⁴ “decontamination” means a procedure whereby health measures are taken to eliminate an infectious or toxic agent or matter on a human or animal body surface, in or on a product prepared for consumption or on other inanimate objects, including conveyances, that may constitute a public health risk; [Sec 2 (d)]

⁵ “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area; [Sec 2 (g)]

⁶ “disinfection” means the procedure whereby health measures are taken to control or kill infectious agents on a human or animal body surface or in or on baggage, cargo, containers, conveyances, goods and postal parcels by direct exposure to chemical or physical agents; [Sec 2 (h)]

⁷ “disinsection” means the procedure whereby health measures are taken to control or kill the insect vectors of human diseases present in baggage, cargo, containers, conveyances, goods and postal parcels; [Sec 2 (i)]

⁸ “epidemic” means the occurrence in a community or region of cases of an illness, specific health related behavior, or other health related events clearly in excess of normal expectancy; [Sec 2 (m)]

⁹ “epidemic prone disease” means a disease as listed in the First Schedule of this Act as may be notified by Central government from time to time; [Sec 2 (n)]

¹⁰ “outbreak” means epidemic limited to a localized increase in the incidence of a disease; [Sec 2 (t)]

¹¹ “potential bio-terrorism agent” means an agent listed in the Second Schedule of this Act; [Sec 2 (v)]

¹² “public health emergency” means any sudden state of danger to public health including extension or spread of any infectious or contagious disease or pests affecting humans, animals or plants, occurrence of or threat of dangerous epidemic disease, epidemic prone disease, disaster or bioterrorism or potential public health emergency requiring immediate action for its prevention, control and management which cannot be dealt with by any law other than this Act; [Sec 2 (y)]

¹³ “public health emergency of international concern” means an extraordinary event which is determined, as provided in International Health Regulations(IHR) of World Health Organization(WHO); [Sec 2 (z)]

¹⁴ “public health emergency of national concern” means a public health emergency as declared or notified by Central government from time to time; [Sec 2 (aa)]

¹⁵ “quarantine” means the restriction of activities and/or separation from others of suspect persons who are not ill or of suspect baggage, containers, conveyances or goods in such a manner as to prevent the possible spread of infection or contamination; [Sec 2 (dd)]

¹⁶ “social distancing” is a public health practice designed to limit the spread of infection by ensuring sufficient physical distance between individuals; [Sec 2 (hh)]

¹⁷ “Vector” means an insect or any living carrier that transports an infectious agent from an infected individual or its wastes to a susceptible individual or its food or immediate surroundings. [Sec 2 (kk)]

¹⁸ 3. If any State Government or administration of Union Territory or any district or local authority is of the opinion that a public health emergency has arisen or is likely to arise, it may, by order) require or empower any official of the district or local authority as the case may be, to take such measures and for such duration of time, to prevent, control and manage the public health emergency, as may be stated in such order; b) require any person or class of persons to observe such measures, for such duration of time, as may be stated in such order; c) prohibit any such activity as stated which is or is likely to be inimical to public health in any area under its jurisdiction; d) quarantine or restrict the movement of any person or class of persons or any object or class of objects suspected to be exposed to any such disease or exposed to any substance as may be stated in the order; e) isolate any person or class of persons infected or suffering from any such disease as may be stated in the order; f) conduct medical examination including laboratory examination of, and provide treatment, vaccination or other prophylaxis to any person or class of persons exposed to or suffering from or suspected to be suffering from any such disease as may be stated in the order; g) undertake deratting, disinfection, disinsection, decontamination, treatment, destruction or disposal of baggage, cargo, containers, conveyances, goods, postal parcels, human remains, animals,

may be issued for the purpose of controlling the epidemics, such as, keeping the infected person in quarantine. Can prohibit any such activities which may be responsible for spreading the epidemic diseases. Can issue orders for conducting medical examinations of the infected persons including providing vaccination of the infected persons. Can issue orders for the gaining persons from one to another place, if it is in the opinion of the government or local authority that such person is carrying infectious agent.

Powers of the Central Government

According to section 4 of the Public health Law, if in the opinion of the central government any public health emergency has appeared, then the central government may issue notifications to the concerned state government or local authority to take essential measures under this public health Law. However, if the central government is satisfied that the emergency use of such a nature where there cannot be any opportunity of wastage of time, then the central government itself can issue preventive orders to control the spreading of epidemic diseases^[19].

Penalty Provisions

Section 5 of the Public health Law clearly depicts that for any contravention of the provisions of this public health law of the wrongdoer shall be punished with a fine not exceeding Rs. 10,000, however, for repeat contravention not exceeding Rs. 25,000. If the contravention of the provisions has been done intentionally, then the officers shall be considered as public

birds or biological substances to remove infection or contamination including vectors and reservoirs of infection; h) Notwithstanding any other provisions in any other Act or Statute, ban or regulate the purchase, transport, distribution, sale, supply, storage, as appropriate, of any drug or of any other material which contains hazardous or toxic substance; i) provide for the inspection and, if required, detention of any shipment, cargo or objects being transported, as also of any vehicle, vessel, ship, aircraft, train, or any other form of transport, leaving, arriving at or passing through any place including any port, airport, bus station or railway station, ground crossing as the case may be, in any area; j) order detention of any person traveling or intending to travel or carrying or intending to carry any animal or plant or bio-hazardous material by any mode of transport as may be considered necessary; k) authorize any official or person to enter and inspect, without prior notice, any premises where public health emergency has either occurred or is likely to occur. l) direct any clinical establishment to admit, isolate and manage cases arising out of public health emergencies and to furnish any report or return in such form and in such manner as may be prescribed and to provide such services as directed m) disseminate such information as deemed appropriate and take such other appropriate measures in such circumstances including closure of markets, educational and other institutions and social distancing.

¹⁹ 4. When at any time the Central Government is satisfied that a public health emergency has arisen or is likely to arise in the country or any part thereof, it may give such directions as it may deem necessary to i) the State Government or administration of Union Territory to implement the provisions of this Act and the State Government or administration of Union Territory shall comply with such directions; ii) the district or local authority to implement the provisions of this Act and the Rule or Order made thereunder and the district or local authority shall comply with such directions: Provided that where it appears to the Central Government that it would be expedient and in public interest so to do, it may assume to itself any of the powers specified under section 3. b) order such measures as it may consider necessary to be observed by the general public or by any person or class of persons to prevent, control and manage the public health emergency or threat thereof; c) require or empower any person to take such measures as it may deem necessary to prevent, control and manage the public health emergency or threat thereof.

will often is which will fix of fine of rupees not exceeding 50,000 and Rs. 1 lakh for repeat contravention^[20].

Conclusion

Thus there is a need for comprehensive and integrated planning for tackling the threat of bioterrorism. What is important is to focus on prevention and response. The bioterrorism or spreading of epidemic diseases is one of the examples by which human beings and the environment shall be at greater health risk. In order to control the spreading of epidemic diseases and prevent the bioterrorism the Public health Law has been prepared in the form of bill. Once it is enacted and enforced in India, most of the problems associated with the control of spreading the epidemic diseases can be handled with due care. However, while going with the penalty provisions, the provision should have been strengthened wHamburg, Margaret A. "Preparing for and Preventing Bioterrorism." *Issues in Science and Technology* 18, no. 2 (Winter 2002).ions can be done, once this public health Law is implemented and faced with difficulties. Overall, the Public health Law seems to be effective one for the purpose of controlling epidemic diseases in India.

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²⁰ Sec 5. (1) Any contravention due to negligence of any provisions of this Act or any Rule or Order made or issued thereunder shall be punishable with a fine not exceeding ten thousand rupees for the first contravention and not exceeding twenty five thousand for repeat contravention. (2) Any willful or intentional contravention of any provisions of this Act or any Rule or Order made or issued thereunder will be a cognizable offence punishable with a fine which shall not exceed fifty thousand rupees for first contravention and not exceed one lakh rupees for repeat contravention and may also lead to punishment by imprisonment which may extend upto a period of two years.

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