

GLOBAL SPREAD OF DEADLY CORONAVIRUS: A LEGAL INTERVENTION

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ABSTRACT

Despite various global efforts on public health, deadly viruses continually emerge in the world. The global alarming rate of diseases spreading worldwide and death resulting from infections require a probe into the effectiveness of regulations, laws and implementations meant to curb spread. This paper examined past reports of previous massacre in the world by deadly viruses and that of the recent outbreak of corona virus. It examined horrible account of speedy spread and fast killing by the novel corona virus currently threatening human existence. It also examined relevant legal control measures in public health meant to prevent and contain the spread of infectious diseases. The paper through doctrinal legal research relied on primary and secondary sources of information. The primary source comprised of relevant International Public Health framework and domestic laws and regulations. The secondary source encompassed relevant publications such as newspapers, journals, internet materials and textbooks on public health. Publications on outbreak of contagious diseases contracted from deadly viruses and defiant steps contrary to the framework on public health were also examined. The study revealed that there had been continual emergence of deadly viruses which had killed several people in the past. Past experience made countries and comity of nations to make efforts to prevent global spread of contagious diseases. Unfortunately, lax implementation of available laws and lack of other proactive steps had led to the recent outbreak of COVID-19 caused by a novel corona virus. The study concluded that the recent outbreak of COVID-19 which started in China was able to spread to other countries and infected over 6 million people in the world. It had so far killed over 380,000 people worldwide. These could have been averted if there had been proper implementation of available legal framework. Consequently, with review of public health laws and strict implementation,

infection and death through contagious diseases spreading from a place to various parts of the world will be averted or nipped in the bud.

INTRODUCTION

Just as human beings have spread to every part of the universe, contagious diseases are also ubiquitous.ⁱ Pandemics are great occurrences of contagious diseases which increase the rate of infections and death in many places. This has triggered considerable economic, public and political shattering. Available fact had proposed that the probability of outbreak of disease had been intensified since the last century by virtue of global travel, human interaction, transformation of rural districts to cities, variation in the use of land, and ill-treatment of natural surroundings.

Decidedly ready nations own successful public establishments, buoyant economies and profitable interest in public health. They have developed explicit basic abilities to identify and administer pandemic in addition to observation, mass inoculation and risk information. Unready nations may experience unsustainable political system; feeble public management; inadequate resources for public health and lack of ability to discover and manage pandemic.ⁱⁱ

There had been serious combat against viruses in the world before the commencement of modernization. The world had been sustained by vaccines which have been curbing spread of infections while drugs are administered to cure the sick. There have been tremendous achievements such as eradication of small Pox from the universe.ⁱⁱⁱ

In 2019, a novel corona virus was discovered in the history of humans. The World health Organisation declared it a global pandemic on 30th January 2020. COVID-19 is diseases triggered by the corona virus which results to respiratory ailment.^{iv} 73,018,907 people have been confirmed to have contracted the disease globally while over 1,624,983 people died globally as at 14th December 2020.^v There are also regular outbreaks of diseases in modern period, but it is not all the outbreaks that result to pandemic level like that of corona virus.^{vi} The International Health Regulation plays important roles in regulating global health and it controls international health challenges.^{vii} It is a global platitude that irrespective of the quality

of a legal statute, it is very difficult for it to solve all identified current and unexpected future events. This necessitates regular review of regulations and laws.^{viii} Despite global efforts to curb spread of deadly virus, nearly all countries have felt the impact of the diseases. This paper will however examine the implementation of relevant regulations on Public Health. It will rigorously look into reasons for the failure of the regulations and its application. This is very important since it failed to curb the spread of corona virus which started in one country and later spread to the whole world killing thousands of people within a short time.

BRIEF HISTORY

Outbreaks of diseases had for a long time been occurring in the history of human existence. People have always inferred omen of end of global advancement any time there is pandemic. In 3000 B.C contagious disease took place in China and killed people in a village. An archaeology site now called “Hamin Mangha” contained skeletons of people of different ages. The plague of Arthens took place in 430 B.C. and lasted for about 5 years.^{ix} Antonine plague which was regarded to be either small pox or measles broke out between 165 and 180 A.D. It killed about 5 million souls. Japanese small pox took place between 733 and 737 and about 1 million people fell victim. The modern world small pox broke out in 1520 and about 56 million people were killed. Yellow fever broke in 1800 and the death toll was between 100,000 and 150,000. Russian flu killed about 1 million people between 1889 and 1958. HIV/AIDS broke out in 1981 and had claimed between 25 and 35 million souls. There was swine flu outbreak between 2009 and 2010 and killed 200,000 people. SARS plagued the world between 2002 and 2003 and killed 770 people. MERS which broke out in 2015 had killed about 850 people and had not been eradicated.^x

Despite the fight, it was discovered a couple of years ago that there were diseases contracted from animals through viruses jumping from animal to mankind.^{xi} There are various types of viruses causing epidemics in the world. Within the last 25 years, Laasa, Ebola, Human immunodeficiency virus (HIV) and Hanta which appeared mysteriously, spread fast. It brought apprehension of fear.

In 1976, a sick School Teacher Yambaka, in a village in Zaire went for medical treatment. Belgian nuns treated him for Malaria but it was later discovered that the teacher who eventually

died was suffering from Ebola^{xiii} and not Malaria. His family and the Nurses were infected and also died. It developed to epidemic that eventually killed 280 people out of the 318 people infected.^{xiii} Between 2014 and 2016 the outbreak of Ebola broke in West Africa which was rated as most deadly in its group was reported to have killed 90% of those who contracted the disease.^{xiv} There was outbreak of Lassa fever in Nigeria while Hanta virus broke out in United States which killed many people. HIV later came up and was greatly dreaded for its attempt to destroy human race. It spread to Africa and every country within 20 years and had already killed over 13 million people with minor sign of surrender.^{xv} COVID-19 caused by corona virus broke out in 2019 and had killed about 1,624,983 as at 15th May 2020.^{xvi}

PUBLIC HEALTH LAW

Law and public health are unique and cannot be separated. Both may assist each other well or badly and cannot be divided. In early lifestyle, public health was enhanced by enforcement of sanitization law, regulation of food supply and care for the unhealthy people. Law was a major weapon applied by early public health professionals whether in China, Egypt or Samaria. The ultimate goal is achievable where governmental agencies are in place to provide appropriate standard and regulating the system. For instance, when there was a pandemic, legal weapon such as quarantine law assisted to minimize hazard. Whenever there is public health calamity, what determines the welfare of the people is the receptiveness of its system of administration of justice. This was the reason why in the later part of the 19th century, the cities in United States of America with better regulatory boards, conquered cholera and other contagious diseases than societies with low legal framework.

Prior to this age and till now, awareness of public health risk can be useful when there is provision of suitable legal framework. The enhancement of public health by law is not only on statutory laws establishing and empowering public health boards. They are important but they are minute out of the importance of law as bedrock for public health.^{xvii} Law is very important to realize health of the populace. It creates public agencies; makes provisions for their goals; functions; funding; power and limitations. Public enactments provide regulating bodies, information, tracking and control of dangerous activities. Important discussions on public health takes place in forums are parliaments, courts and managerial agencies through rights, duties and justice.^{xviii} Contagious diseases have been the major source of infections and death

for a long time until recently when non contagious diseases compete with infectious diseases and at times more than infectious diseases. The lion share of deformity and death globally is caused by infectious diseases. In some regions, it is the major cause of illness.^{xxix} Effectiveness of control policy is greatly assessed by the capability of trimming down incubation. There are two major ways of controlling infectious disease. The first is isolation, which reduces spreading of diseases from one person to another while the second is by inoculating the people to insulate them from being infected.^{xxx}

A crusade against outbreak of diseases and its impact entails approaching with the aim of achieving the goals. The outcome should produce little and fast reparable damage to the economy; sustainability of democracy; few death tolls: functional and stable health system that will prepare the economy against future outbreak.^{xxxi}

INTERNATIONAL HEALTH REGULATION

The World Health Organisation (WHO) has been playing fundamental and influential position in organising and overseeing International Public Health. It has developed to the level of being reckoned with, in the development of fast public health. It has been lawfully empowered to play both regulatory and operational roles in international public health.^{xxxii}

It is a special agency of the United Nations. Its constitution became effective from 7th April 1948 hence, 7th April has been set aside as World Health Day.^{xxxiii} It has contributed tremendously to the international public health such as making the world free of small pox; decreasing polio menace, malaria and providing framework to control tobacco in 2005. It is its function to increase the standard of health physically, mentally and socially to develop a society that is free of disease and illness.^{xxxiv}

Article 2 of International Health Regulation provides that the purpose and scope of the regulation is to prevent and control international spread of disease. It is for provision of public health response. It provided for prevention and control of international spread of diseases that can affect public health in ways that are commensurate and limiting public health risks and also in such ways that obstruct unnecessary interference with international traffic and trade.

Article 3 provides as follows:

- i) The dignity of human rights of the people should be held while implementing the regulation.
- ii) The implementation shall be under the guidance of the United Nations charter and the constitution of the World Health Organisation.
- iii) It shall be guided by the aim of the universal application to protect every human being from international spread of diseases.
- iv) The state parties are to act within their country by legislating and implementing the international health policies in conformity with the purpose of the International Regulations.

Responsible authorities of each state party are to delegate or establish National, International Health regulation focal point which shall be responsible for the implementation of measures in International Health regulation.^{xxv}

SURVEILLANCE

State parties are compelled in article 5 to develop, strengthen and maintain shortly after the treaty, the ability to discover, evaluate and inform the World Health Organisation. It is provided in Article 5.4 that the World Health Organisation shall evaluate the report of discoveries of state parties in order to check their possibilities of causing international spread of diseases. It is also to check possibilities of interference with movement of the people and properties across national order. Article 6 (1) empowers state parties to examine and notify World Health organization through proficient means. Each state shall also notify the World Health Organisation with detailed information of any discovery within 24 hours of any occurrence in their territory that may lead to international health risk. The World Health Organisation can also involve the international Atomic Energy Agency (IAEA) if necessary.

Article 6 (2) provides that the state party is to also be giving periodic progress report to the World Health Organisation on event that may lead to international health emergency. This should include result of test from laboratory; definitions; source of the risk and its type; the number of discovered cases and mortality. It shall also reveal the circumstances surrounding

the spread of the diseases and measures been taken against the spread; difficulties encountered and the assistance the state needs to tackle to the diseases that have tendency of developing to public health of international concern.

Where there is evidence of the outbreak, the state party affected shall always supply WHO with progress report. Evidence of sudden outbreak that can affect the public within the territory of a state party irrespective of its source and origination shall be communicated to the World Health Organization in conformity with Article 6.^{xxvi} It is also provided that if there is any event in which there is no sufficient information to decide that there is such outbreak, the state party may advise the World Health organization through their national office of international Health regulation in the country. WHO can as well be consulted on health measures that can be helpful?

CORONA VIRUS AND GLOBAL CALAMITY

The speedy spread of corona virus which suddenly broke out occurred at the time the lion share of affected nations is unprepared to secure themselves against such. While the outbreak is yet to be contained, it is clear that the outbreak is globally ubiquitous. Science is playing dominant role to bail out the world. Medical professionals are trying to heal the sick while public health officials are tracking the virus and sensitizing the public to observe social distancing. Research is being carried out for diagnosis, vaccines and treatment. The measures are essential, especially in developing countries where the people can easily contract the disease. They are countries where resources are scarce and poor funding of necessary facilities are taking place. As at 2018 in Africa it was estimated that 25.7 million people were infected with H.I.V. Besides, there are also millions of tuberculosis patients in Africa and South Asian that can easily be infected because they have weak immunity against COVID -19.

There are numerous challenges in Africa that can aggravate the outbreak of the virus. Prevention of infection through quarantine will be difficult to implement where people are facing the consequence of climate change and economic challenges.^{xxvii}

LEGAL IMPLICATION

Beijing cannot be blamed for the pandemic which is not within its power to control. Its fault and legal liability are the intentional lie to the whole world on the risk of the virus and bold obstructing steps that would have been globally taken to insulate the world against the global spread. There is revelation that the index case in Chebei Choma occurred in 17th November 2019. By the middle of December, it was to the knowledge of the government of China that the disease had tendency of spreading from one man to another because by that time Nurses and Medical Doctors were already falling sick. The government hid the information of the outbreak and punished doctors that attempted to reveal the information.

The World Health Organisation maintained in 14th January 2020 that there was no proof with China that the virus can be contracted by man. This was further corroborated by Center for Diseases Control of China that there was low tendency of spreading of a disease. China's deceit prevented United States of America from preventing the spread of the diseases. It refused to share samples with United States which would have prevented it from spreading to United States. The United States of America secretly collaborated with a Director of Biocontainment Laboratory in University of Texas who had research partnership with Wuhan Institute of Virology for Laboratory transfer. It was initially agreed but was turned down on the 24th January as a result of intervention of China officials. It was two months later that Chinese imposed lockdown and revealed that there was pandemic in China. It was declared that China was not revealing the actual figure of death and infection. Necessary information needed for research was not also revealed. China has been alleged to be negligent and also refused to disclose information and impeded solution.

China has been alleged of initial covering the outbreak. It was reported that the claim that the virus started from the Wuhan's wet market might not be true. An inadvertent release of bat coronavirus from a branch of Center for Diseases Control of China which was about 300 yards from the market was suspected. It could be through contraction by a lab worker, leakage of sample or poor disposal of waste. If it is true, it makes china more liable.^{xxviii}

State parties are obliged to notify the World Health Organization of unexpected or unusual occurrence on public health likely to result to "public health emergency of international concern" within 24 hours of discovery in conformity with article 6 and 7 of international Health

Regulation. Such state is to be guided by Annex 2 of International Health Regulation 2005 which provided criteria to be fulfilled to determine whether or not there is emergence of issues on public health of international concern. It can be determined by the seriousness of the impact to health; its extraordinary and abrupt nature, and manifestation of weighty hazard of international migration and commercial constraints. It was in December 2019 that China reported at the local office of World Health Organisation that there was Pneumonia but they did not know the cause. There was information that the outbreak started in November 2020. China was alleged to have reproached and detained doctors and journalists for disclosing information on the outbreak.

Affected states that are supposed to notify WHO do not usually do that. Section 9(1) of the International Health Regulation allows informant from another state to inform WHO within 24 hours of occurrence of outbreak of disease in a country. WHO is required to confirm the information received from outside the state of the outbreak from the state where the outbreak occurred? Such information can even be disclosed by a non-governmental body. Article 9(2) provides that state party can also inform WHO of information received from a different state on an outbreak that can spread globally from their country. The Director General of World Health Organisation is empowered under article 48 of International Health Regulation to select people base on experience and professionalism and set up a committee of experts from a Rota handled by WHO. They are selected base on geographical quota but must include one member from the state of the outbreak. The report of the emergency must confirm the outbreak and it is usually followed by the Director General of the WHO.

When the corona virus was confirmed outside China in January 13 2020, the Director General initiated the 1st meeting of the emergency committee on the 22nd January 2020. There was no resolution to confirm an outbreak to be of international public health concern which can spread from one human to another. It was when they met as agreed on the 30th January that they agreed that there were three people who contracted the diseases outside China. They therefore concluded that it was a disease of international public health concern.

Many people criticised the delay of the Emergency Committee for hesitating to declare the outbreak to be of international concern. It is important to note that the Committee included representatives of United States of America, Thailand, France, South Korea, Japan among

others. Consequently, it would have been difficult for china to resist the declaration. It is important that the deliberation of the Committee was always confidential and the outcome has always been briefed. This made it difficult for anybody to conclude on yardstick applied. It is however necessary for the deliberation to be transparent in future.^{xxix}

COMPLIANCE AND ENFORCEMENT

The provisions of International health regulation do not provide for enforcement mechanism when a state member refuses to comply with any of the provisions of the instrument. The consequences of non-compliance are weighty weapon to make states to comply. Pressure from members and information known to the people are very helpful. With the development of electronic social media, it will be difficult to hide information for a long time in the world now. States will not want to be isolated. Non-compliance can lead to tarnishing of reputation, increased rate of infection and death rate, travel and trade restriction against the no-compliant state socioeconomic disturbance and public annoyance.^{xxx}

QUARANTINE AND TRAVEL BAN MEASURES APPLIED TO CONTAIN THE SPREAD

Quarantine means separation of persons or a community from being exposed to contagious disease. Isolation is the separation of persons from a known infected person. Quarantine and isolation are substitutable measures used but with different approaches.^{xxxi} They can also be voluntarily applied by individuals. Countries have uniquely applied quarantines and travel bans so as to curtail the virus. China lucked down every city; Italy applied draconian laws; United States imposed enforceable quarantine against thousands of the residents while some of them were on voluntary quarantine. Non-United States residents that were travelling to United States from China and Iran were deprived entry. Majority of European countries were screening returnees from heavily endemic countries. Quarantine and travel bans have long been used as first aid measures applied when there is pandemic but if stringently applied it may not produce the desired result.

It is the government of a country that imposes isolation and quarantine. The application is not common in recent years but many countries isolated tuberculosis patients that failed to abide

by medication regulation. Not less than 18 countries isolated returnees from West Africa in 2014 when there was Ebola. Courts at times may prevent the imposition when it is unreasonable to do so or when it is established that wrong procedure was applied to impose them by the government. In *Jew Ho v Williamson*^{xxxiii} a Federal High Court in San Francisco prevented imposition of quarantine to contain the spread of bubonic plague in 1900. In March 2019, minors that refused inoculation against measles were prohibited from entering public places in Rockland County, New York in 2019 but court in *W.D. v County of Rockland*^{xxxiii} ruled against that order by maintaining that there was no emergency that will warrant such order. In *Mayhew v Hickox*, a nurse who served in Sierra Leone was compelled to be quarantined for 21 days when she returned to United States of America. She challenged the quarantine that since she did not have any symptom, she could not transmit Ebola which could only be transmitted by only a person that is symptomatic. She claimed that she should not undergo the stringent measure of quarantine because that would amount to violation of her right. Court however quashed the quarantine and ruled that she should be given direct active monitoring which was less restrictive.^{xxxiv} In *Jacobson V Massachusetts*^{xxxv} the court illuminated public health regulations comprising isolation and quarantine by deciding that it must be reasonable and be in conformity with the right of the people.

AIRPORT SCREENING

Screening of travellers may be reliable but it has been discovered from screening conducted on other diseases that infected travellers are hardly discovered through screening. Recently, 8 travellers traveling to Shanghai from Italy bit the screeners who did not noticed them. They were later after departure discovered to be positive. Cowling, a Honk Kong Epidemiologist believed that screening could only slow down local infection and not an effective means to prevent epidemics. He also maintained the same opinion that it is only used for government to be seen to be making effort to curb the menace. Some researchers still believe that it is helpful to evaluate and screen passengers before boarding planes and also at the point of entry. This will discourage ill travellers from travelling. Besides, information gathered on arrival can help to trace travellers.

Thermal Scanner and hand-held thermometers have also been declared unreliable because they produce false positive and false negative results. Deceiving travellers can take fever-suppressing drugs to misrepresent the true position of symptoms and their movement. Besides, it is important to know that those infected corona viruses that are on incubation stage cannot have any symptoms.^{xxxvi}

An easy blood test with a device called the reader has just been invented in Dubai. It can be conducted when a passenger arrives or is departing. It can reveal the presence of deadly viruses like corona virus within 10 minutes. It is similar to blood test for pregnancy or diabetics. The test will assist public health officials to enforce quarantine regulation for faster discovery.^{xxxvii} Emirate is the first airline to invent such. The device will be useful to those travelling to countries that require COVID-19 test evidence. This will enhance air travel to and from Dubai. The breakthrough was the innovation of Dubai health Authority.^{xxxviii}

CONCLUSION

It is obvious that there is a new corona virus plaguing the world. It is also clear that there was delay in disclosure of information on the emergence of the virus which has tendency to destroy mass population of people worldwide within a short period. Despite past global tragic experience of pandemics and international legal framework on public health, the world could not be prevented from viral massacre of great amount of mankind. The entire world is made to suffer what would have been prevented by quick implementation of legal framework on public health. With a better legal framework, the gap in the current framework will be filled; the ruinous anomaly will be corrected and the negligence displayed at the origin of the pandemic will be prevented from reoccurring.

RECOMMENDATIONS

There should be enforcement mechanism. Article 8 provides that the state party of venue of an outbreak may notify the WHO when there is no evidence of outbreak that can lead to public health of international health concern and may also consult WHO on measure that will be appropriate. Countries may not report or they may not seek consultation more so the statement

of the instrument does not make it compulsory for the state party of the outbreak to report and consult. Therefore, as soon as there is an outbreak whether it is disclosed by the state party or not or confirmed by the state party or not, the World Health Organisation should be notified. It should start performing its duty immediately in order to avoid delay and blame as experienced in the china when the outbreak of Corona virus was discovered.

Medical and health workers should be allowed to share experience of new or strange diseases suspected privately within their professional body or association. They should be protected from punishment or molestation for sharing such information.

The professional bodies should as well be allowed to send report to the World Health Organization of any outbreak that is likely to lead to public health emergency of international concern. This should be allowed for quick intervention since they are often the first victim of deadly virus. Besides, if states other than state of the suspected outbreak can report the National professional association of the state of the outbreak should be allowed to report outbreak to the World Health Organisation.

Journalists should be protected from reporting suspected outbreak and where this is done, the World Health Organisation should act on it immediately.

Financial Aid should be rendered to state of the outbreak in form of research and equipment financing and loan. The World Bank's Pandemic Emergency Financing Facility should be extended to both developed and developing country to encourage them to report outbreak on time.

Effort should be intensified on quick test device to discover an infected person just as been invented by Dubai where within 5 minutes it will be revealed if one has been infected. The person will not be allowed to travel to another country to spread the disease. Such device would be useful in testing other people at the early especially at the early to contain the spread apart from the travellers.

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