Acts of violence against health care workers as cognizable, non-bailable offences

Part of: GS-II- Governance (PT-MAINS-PERSONALITY TEST)

The Union Cabinet has approved promulgation of Ordinance to amend the Epidemic Diseases Act, 1897 in the light of COVID-19 pandemic situation making acts of violence against the healthcare workers as cognizable and non-bailable offences.

Under it, there is a provision to provide compensation for injury to healthcare service personnel or for causing damage or loss to the property. The health workers who are trying to save the country from this COVID-19 pandemic are unfortunately facing attacks. The investigation into the cases of attack on healthcare workers will be completed within 30 days and judgment will be pronounced within one year.

The accused of the attack can attract a punishment ranging from 3 months to 5 years and a fine from 50 thousand rupees to 2 lakh rupees. In case of grievous injuries, the accused can be sentenced from 6 months to 7 years and they can also be penalized from one lakh to 5 lakh rupees. If damage is done to the vehicles or clinics of healthcare workers, then a compensation amounting to twice the market value of the damaged property will be taken from the accused.

The also government took the decision of providing 50 lakh rupees insurance cover each for all healthcare workers including doctors, nurses and ASHA workers. Under Ayushman Bharat - Pradhan Mantri Jan Arogya Yojana, the beneficiary will get the treatment in COVID hospital free of cost in case of coronavirus infection and in case of non-Covid diseases, the beneficiary will also be eligible to get the treatment in non empanelled hospitals free of cost through the certificate issued by the government hospital.

Ordinance

Ordinances are like a law but not enacted by the Parliament but rather promulgated by President of India when Lok Sabha and Rajya Sabha or either of those is not in session. Union Cabinet’s recommendation is a must for an ordinance to be promulgated. Using ordinances, immediate legislative actions can be taken.

Note: For an ordinance to exist, it should be approved by the Parliament within six weeks of it being introduced. Parliament is required to sit within 6 weeks from when Ordinance was introduced.

What is Ordinance Making Power of Executive?

Ordinance Making Power of President

Article 123 deals with the ordinance making power of the President. President has many legislative powers and this power is one of them.

Details about President’s ordinance making power is given in the table below:
President's Ordinance Making Power

He can only promulgate the ordinance under these circumstances:

- When both the houses or either of the house is not in session
- Circumstances occur where the President thinks it necessary to act without waiting for houses to assemble

An ordinance can be retrospective in nature

An ordinance rolled out when both the houses are in session is void in nature

The Parliament has to approve the ordinance within six weeks from its reassembly

Acts, done and completed under the ordinance before it lapses, remains fully active

Unlike the Indian Constitution, most of the democratic constitution of the world don’t give such ordinance making power to their President

It has no connection with the President’s power to proclaim a national emergency

The power of ordinance making is not to be taken as a substitute for the legislative power. Only under special circumstances, ordinances can be rolled out

President’s power to roll out ordinance is justiciable on the ground of malafide

What are the limitations of ordinance making power of President?

There are the following limitations:

1. President can promulgate an ordinance only when both the houses are not in session or only one house is in session.
2. For an ordinance to be promulgated, such circumstances should be there which deem it necessary for President to legislate through the ordinance

Note: In RC Cooper vs. Union of India (1970) the Supreme Court, while examining the constitutionality of the Banking Companies (Acquisition of Undertakings) Ordinance, 1969 which sought to nationalise 14 of India’s largest commercial banks, held that the President’s decision could be challenged on the grounds that ‘immediate action’ was not required; and the Ordinance had been passed primarily to by-pass debate and discussion in the legislature.

Epidemic Diseases Act of 1897

What is Epidemic Diseases Act of 1897?

It is routinely enforced across the country for dealing with outbreaks of diseases such as swine flu, dengue, and cholera.

It was introduced by colonial government to tackle the epidemic of bubonic plague that had spread in the erstwhile Bombay Presidency in the 1890s.

Why was this act criticised?

Historians have criticised the Act for its potential for abuse.

Using powers conferred by the Act, colonies authorities would search suspected plague cases in homes and among passengers, with forcible segregations, evacuations, and demolitions of infected places.
In 1897, the year the law was enforced, freedom fighter Bal Gangadhar Tilak was punished with 18 months’ rigorous imprisonment after his newspapers Kesari and Mahratta admonished imperial authorities for their handling of the plague epidemic.

Provisions of the 1897 Epidemic Diseases Act:

1. It empowers state governments/UTs to take special measures and formulate regulations for containing the outbreak.
2. It also empowers state to prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such disease or the spread thereof.
3. The state may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.
4. The State Government may take measures and prescribe regulations for the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.
5. It also provides penalties for disobeying any regulation or order made under the Act. These are according to section 188 of the Indian Penal Code (Disobedience to order duly promulgated by public servant).
6. It also gives legal protection to the implementing officers acting under the Act.

Examples of implementation:

1. In 2018, the district collector of Gujarat’s Vadodara issued a notification under the Act declaring the Khedkarmsiya village in Waghodia taluka as cholera-affected after 31 persons complained of symptoms of the disease.
2. In 2015, to deal with malaria and dengue in Chandigarh, the Act was implemented and controlling officers were instructed to ensure the issuance of notices and challans of Rs 500 to offenders.
3. In 2009, to tackle the swine flu outbreak in Pune, Section 2 powers were used to open screening centres in civic hospitals across the city, and swine flu was declared a notifiable disease.