At a time when the ominous shadow of Corona Virus Disease 2019, infamously referred to as COVID-19, is gradually cast upon throughout the world, citizens of many countries are experiencing the unnerving as well as unprecedented aspect of being confined to their residence. Sri Lanka is no exception and the deprivation of freedom of movement seems to have already taken its toll on its citizens! While a substantial proportion of the Sri Lankan populace adheres to the regulations of the government and stay indoors demonstrating remarkable character, especially during these festive days, some have become adamant in flouting the Presidential edict paying scant regard to the same. This indiscriminate behavior at the face of a global pandemic can be attributed to several phenomena such as ignorance, inconsiderateness, egoism, eccentric predilections, etc. Ignorance, which can rationally be identified as the root cause of many infractions of state regulations aimed at curbing the deadly virus, basically comprises of two aspects; Ignorance of law and non-comprehension of gravity of the disease. Stringent regulations persisting in the island thwarting freedom of movement have often been construed as arbitral and oppressive, devoid of legislative sanction. This, in turn, seems to have resulted in a propensity to refrain from toeing the line with the said regulations plunging the society into further chaos. Shedding some light on the legal perspective of the applicable regulations and the functions of the relevant authorities thus becomes crucial in the said context. The following legislation set out the basis of the legal frame work of the regulations presently introduced in Sri Lanka in view of combating with the spread of COVID-19.

- Quarantine and Prevention of Diseases Ordinance No.3 of 1897.
- The Penal Code.
- The Criminal Procedure Code.
- The Constitution.

The following contains a categorical analysis of the provisions of the said legislation which have been applied in the present context.

- **Quarantine and Prevention of Diseases Ordinance No.3 of 1897.**
  The purpose of this Ordinance is to provide for provisions for preventing the introduction into Sri Lanka of any disease and for preventing the spread of such disease in and outside Sri Lanka. Section 13 of this Ordinance defines a disease to be any disease of contagious, infectious or pandemic nature making Corona Virus fall well within its ambit. This Ordinance empowers the Minister of Health to formulate rules pertaining to the prevention of spreading disease as well as to revoke and vary regulations as seem necessary or expedient for the aforesaid purposes.
Minister of Health has already declared COVID-19 as a quarantinable disease by Extraordinary Gazette No. 2167/18 dated 20.03.2020. By virtue of Extraordinary Gazette No. 2168/6 dated 25.03.2020, The Minister further amended the Ordinance by substitution of the definition of the expression ‘Proper Authority’ to include,

(A) the Director General of Health Services in respect of the whole of Sri Lanka;

(B) in an area within the administrative limits of –

(i) a Municipal Council, the Mayor of that Council or the Medical Officer of Health or the Additional Medical Officer of Health of such area; and

(ii) an Urban Council, the Mayor of such Urban Council or the Medical Officer of Health or the Additional Medical Officer of Health of such area;

(iii) a Pradeshiya Sabha, the Chairman of the Pradeshiya Sabha or the Medical Officer of Health or the Additional Medical Officer of Health of such area; or

(iv) any Council or Pradeshiya Sabha in relation to which any Authority is created and established by or under any law to exercise, perform and discharge the powers, duties and functions corresponding to or similar to the powers, duties and functions exercised, performed and discharged by such Council or Pradeshiya Sabha, such Authority;

(C) in an area of a Port, the Director of Quarantine, Deputy Director of Quarantine or the Medical Officer of the Port Health Office;

(D) in an area of an Airport, the Director of Quarantine or the Medical Officer of the Airport Health office,

(E) in any military, naval or air force establishment, the Medical Officer of the establishment; and

(F) in any area other than an area referred to in paragraphs (b), (c), (d) and (e), the District Director of Health Services or the Regional Director of Health Services of such area.

Section 03 of the Ordinance provides for a comprehensive list of matters in respect of which regulations can be made by the Minister. Although, there’s a debate among certain quarters of the society as to the propriety of isolating areas from which persons infected with COVID 19 have been reported, such measures are well sanctioned by Section 03 of the Ordinance. Accordingly, establishment and maintenance of quarantine centers, inspection of passengers arriving from overseas and directing them to quarantine centers, isolating areas where COVID-19 patients have been identified,
directing COVID-19 infected suspects for voluntary quarantine, etc., can be identified as implementation of the said provisions under Section 03 of the Ordinance. Section 11 of the Ordinance further empowers the Minister to delegate the enforcement and execution of regulations to the relevant Municipal or Local Authority.

Section 04 sets out the offences under the Ordinance. Accordingly, any person who, without lawful authority, contravenes any regulation or does or omit to do anything which he ought not to do or omit, or obstructs or assists to obstruct any Public Health Inspector, or Police officer or any other officer appointed under the Ordinance shall be guilty of an offence under the Ordinance. In terms of Section 33 of the Judicature Act read with Extraordinary Gazette No. 43/4 of 02.07.1979, the Magistrate Court of the division has been granted exclusive jurisdiction to here in to such said offences upon institution of proceedings under Section 136 of the Criminal Procedure code.

In terms of Section 5 of the Ordinance and Increase of Fine act No.12 of 2005, imprisonment of either description not exceeding a period of 6 months, or a fine not below Rs.2000 and not exceeding Rs. 10,000 can be imposed on any offender under the Ordinance.

Section 6 of the Ordinance stipulates the duties of the inspectors, any other officers and police officers thereunder. Accordingly, any officer described in Ordinance can stop and detain a person seen or found committing or reasonably suspected of being engaged in committing an offence against the Ordinance. Similarly, any such officer can arrest without a warrant any person obstructing or impeding the execution of any provision of this ordinance. However, as per Section 6(4) of the Ordinance, a Police Officer is not deprived of his authority stemming from any other law and as such, persons arrested under this Ordinance may be released on police bail without being produced to the Magistrate.

- **Public Security Ordinance No.25 of 1947.**
  Accordingly, Section 2 of the Public Security Ordinance empowers the President to make and implement emergency regulations, curfew, declare essential services, etc. In dealing with the issue at hand, President Rajapakse, by virtue of Extraordinary Gazette No. 2168/01 dated 23.03.2020 issued under Section 12 of this Ordinance has called upon the Sri Lankan Army, Navy and Air Force to maintain the public order in all Districts of Sri Lanka.

- **The Penal Code.**
  Penal Code, as opposed to the general perception of only containing provisions dealing with hardcore crimes, comprises of provisions pertaining to jeopardizing the health of the public. Acting in any manner which could result in spreading a disease is thus criminalized under the Penal Code.
In terms of Section 262 of Penal Code, whoever unlawfully or *negligently commits any act* which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term extending up to six months or fine or with both.

While the said Section 262 of the Penal Code basically deals with negligence which could result in spreading a disease, the following Section specifically provides for intentional spreading of a disease with more stringent punishment.

Hence, Section 263 of the Penal Code sets out that whoever *maliciously does any act* which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term extending up to two years or fine or with both.

As such, the Penal Code perceives the spreading of a disease to be a crime so grave that it contains separate provisions to ensure that the offenders do not go scot free by availing upon a plea of negligence and/or unintentional mishap.

The Penal Code also contains provisions relating to disobedience with quarantine regulations. In terms of Section 264 of the Penal Code, whoever knowingly disobey any rule made and promulgated by Government for quarantine purposes shall be punished with imprisonment of either description for a term extending up to six months or fine or with both.

Recently, some dismal incidents have been reported throughout the island in which public officers have been interrupted and/or their orders have not been complied with in the course of grappling with COVID-19. Section 183 to 187 of the Penal Code can be directly made applicable in such instances of indiscriminate behavior thwarting the functions of a public officer. Accordingly,

- Obstructing a public servant in discharge of his public functions (Section 183 of the Penal Code)
- Omission to assist a public servant when bound by law to give assistance (Section 184 of the Penal Code)
- Disobedience to an Order duly promulgated by a public servant (Section 185 of the Penal Code)
- Threat of injury to a public servant in discharge of his public functions (Section 186 of the Penal Code)
- Threat of injury to induce any person to refrain or desist from applying to any public servant for protection against any injury when such public servant is legally empowered to give such protection (Section 187 of the Penal Code) are punishable under the Penal Code with imprisonment or fine or with both.

- **The Constitution.**
Some people harbour reservations as to whether the rules and regulations made under Quarantine and Prevention of Diseases Ordinance No.3 of 1897 and Public Security Ordinance No.25 of 1947 as well as other relevant legislation amounts to suppression of the fundamental rights enumerated in Article 14 of the Constitution in terms of which, every citizen is entitled to, *inter alia*,

- the freedom of peaceful assembly,
- the freedom of association,
- the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching,
- the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise,
- the freedom of movement and choosing his residence within Sri Lanka, and,
- the freedom to return to Sri Lanka.

Nevertheless, the Constitution itself contains the answer to dispel such doubts. In terms of Article 15 (7) of the Constitution, the exercise and operation of all the fundamental rights declared and recognized by Article 12, 13(1), 13(2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, *public order and the protection of public health* or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society.

Article 33 of the Constitution declares the duties, powers and functions of the President.

The President, by virtue of Extraordinary Gazette No.2168/08 dated 26.03.2020 issued under Article 33 of the Constitution has appointed a Presidential Task Force to direct, coordinate and monitor the continuous delivery of services for the sustenance of overall community life, including the supply of provisions produced in rural areas directly to consumers giving priority to the Districts of Colombo, Kalutara, Gampaha, Puttalam, Jaffna, Mannar, Kilinochchi, Vavuniya and Mullaitivu which have a greater vulnerability to be affected by the Corona virus.

The set of legislation stated above amply demonstrate the fact that prevailing regulations imposed by the Government in respect of eradicating the COVID-19 pandemic are not spontaneous, but, a mere implementation of provisions entrenched in legislation already existent. Abiding by such rules and regulations without defying them challenging their legality would enable Sri Lanka to brave the COVID-19 pandemic and emerge unscathed as a nation.

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