SANCTION THEORY OF JURISPRUDENCE SOLUTION TO COVID-19

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Abstract

Sanctions in present times have gained vital importance to put the law and order of a country in smooth functioning. In present situation where the world is locked down by a virus, the importance of sanctions cannot be ignored. Countries have imposed sanctions in the form of monetary fines and imprisonment to control the present situation due to Covid-19. Certain laws have been invoked and the laws have been made stricter. The sanction theory of jurisprudence had been prevalent at times when the situation goes out of control of the administration of a country. The present paper focusses on whether sanctions can be the ultimate solution to. The present crisis.

Keywords: Sanctions, Covid-19, Countries, Administration, Lockdown.

1. Introduction

John Austin is said to be the founder of systematic analytical jurisprudence. To be more specific, he is known to be the creator of what we call today as the concept of 'Legal Positivism'. In particular, the 'command theory' taught in schools of law has been subject to a lot of criticism by law experts, but still continues to attract many legal positivists. John Austin's lectures which were published in the year 1932 by the name of 'Province of Jurisprudence determined'. Although, the lectures attracted a smaller population, they were famous because Austin was known to be defying the principles of law which were backed by his own theory of 'command of sovereign backed by sanction'. Austin in his lectures 'Province of Jurisprudence determined' incorporated some exceptions which according to him were some 'imperfect laws'. These laws included the laws which were included as a legislation and were imposed in the society without any sanction. According to Austin's perspective, something was law or not a law depended upon what people do with the

imposed law. Austin is not arguing on the morality of the law but emphasizes on the likes and dislikes of society towards a particular legislation.

2. Austin and his Theory of Legal Positivism

Austin with the help of his analytical approach towards legal positivism for a better understanding focusses on the in-depth understanding of the fundamental concepts of legal reasoning. Positive law can be called as 'man-made law'. It includes the legislations that have been introduced by parliament. Positive law is defined as 'A system of law promulgated and implemented within a particular political community by political superiors, as distinct from moral law or law existing in an ideal community or in some non-political community'.[1] According to Austin, "Law is the aggregate of rules set by men as politically superior, or sovereign, to men as politically subject". He compares law to the command by legislatures which govern the society. The positive law theory by John Austin consists of four essential elements: (1) Sovereign; (2) Duty; (3) Command and (4) Sanction.

The Sovereign element elaborates on the existence of a sovereign power which is used to govern the society. It is the politics behind the sovereign power which controls it. There can be only a singular legislature in the country and it can be either an individual or a group. This singular legislature is the sole source of power in a country and there can be no 'de jure' limits to this uncontrolled power. Another element known as the 'imperative law' or the 'command theory' is a regulation which stipulates a general course of action enacted by a sovereign body wither through the help of a physical force or any other form of mandate. The 'command' coming from a 'sovereign body exercising 'sovereign powers' levies a 'legal obligation or a duty' on those who hold a political position under the sovereign power. The power to punish people for disobedience of the law's rests with the sovereign power. Disobedience of these legislations can lead to punishments and penalties, which is also known as sanctions. The requisite behind enacting legislations is to put the society in order. Adherence to the laws is expected from the society. Retribution and reformation are major concerns of the sanction theory. The basic purpose of enacting a

[1] Bryan A. Garner, *Black's Law Dictionary* (9th Ed., 2009) pg. 1280.

legislation is to make the people follow them. Administration of a country helps in maintaining law and order in a country. Austin's theory brings in accuracy, lucidity and clarity in legal thinking. According to Austin, law is made by the sovereign state and not by the almighty or the nature. It has provided a systematic explanation towards positive thinking of law. The followers of John Austin's approach of Analytical thinking are extricated from unnecessary information that other theories provide with.

2.1 History of Sanctions for Social Control

Social request is kept up by individuals with the best political, monetary, and social assets. As indicated by political scholar Karl Marx, power is unevenly circulated in the public arena, which implies that social request is coordinated by a first-class not many to the detriment of the greater part. Social requests can be valuable when accomplished through the deliberate investment of the lion's share class. It is abusive when controlled through a tyrant government. The food and upkeep of peace are vital in guaranteeing the manageability of the majority rule government of each nation or society. In keeping up lawfulness in any nation, the media which is alluded to as the fourth bequest of the domain can't be disregarded. The essential job of the media is to instruct, advise, and engage, these jobs when navigated can be extremely risky for any nation. We don't have to look a long way past our mainland to perceive what has befallen a portion of our neighbour nations into the extent what deception and media melodrama can cause to a nation are concerned. Our media must gain from the mix-ups that were made by their partners somewhere else which wound up in diving their nations into mayhem which has until now separated their nations on either political innate line.

Formal sanctions are generally enacted by governments as laws to compensate for conduct. Some formal sanctions comprise of fines and detainment for the request to prevent negative conduct. Different types of formal social control can incorporate different assents that are increasingly serious relying upon the conduct seen as negative, for example, restriction, ejection, and cut-off points on political opportunity. On the off chance that an individual oversteps a law set out by the legislature and is gotten, they should go to court and relying upon the seriousness, should pay fines or face harsher outcomes.

2.2 Different Views on Sanction Theory

Different teachers of legal positivism like H.L.A. Hart, John Austin, Hans Kelson have put on their views on Sanction theory. The sanction theory has evolved through the times. The Roman territory had faith in the dictates in New Testament, which communicated the idea that the incomparable force really has gotten divine assent by being allowed to win, that it has a legitimate case to dutifulness. These dicta are proof of the slants of roman commonplace under the previous domain. The predominant response to any question about the wellspring of legitimate sway and the ethical cases of a sovereign to the compliance of its subjects was that God had delegated certain forces to oversee the world and to oppose would be wrongdoing. It was conceded that there were two sovereigns and every way supreme. Be that as it may, late around, the sixteenth-century different changes occurred which shook the current texture of thought and conviction. These incorporated the disintegrating of medieval structure of the general public, pope's position is met with a revolt and a large portion of Europe was taken from his influence, another sprit of request, distrustful in its propensities jumped up in Europe (a trait of the renaissance). Along these lines the customary convention in regards to the premise of power which had been adequate for the medieval times had blurred, ethics started to be isolated from religious philosophy, individuals began scrutinizing the premise of a lords' case to dutifulness. Another clarification of the idea of political society was presently required and from this time onwards new speculations of state power started to show up.

3. H.L.A Hart on ‘Sanctions’

As indicated by Hart, "rules are imagined and talked about as forcing commitments when the general interest for similarity is persistent and the social weight brought to endure upon the individuals who veer off or take steps to go astray is great." According to Hart, lawful standards are principally implemented through the risk and real utilization of "physical approvals" on the other hand, the regular type of good weight "comprises in bids to the regard for the principles, as things significant in themselves, which is ventured to be shared by those addressed." Although this point is a significant and enlightening one, Hart places it in a to some degree deceiving way. In any case, those interests to inner voice which Hart partners with the implementation of ethics additionally assume a significant job in the

requirement of the guidelines of a legitimate framework. This is particularly evident concerning self-requirement, where dutifulness to the law is frequently founded on the conviction that one has an ethical commitment to do as the law orders. That the intrigue here is to an ethical conviction, or to one's still, small voice, doesn't modify the fundamental certainty that in this circumstance the intrigue works as an instrument of law implementation. All the more critically, there is nothing silly in the possibility of an ethical framework which specifies that specific classes of transgressors should be rebuffed by the use of physical approvals. The way that the utilization of such endorses for an ethical reason may itself be a legitimate offense doesn't nullify this point. Moral framework may endorse physical discipline for the individuals who defy its norms, inasmuch as the burden of such discipline is successfully precluded by the authorities answerable for implementing a free arrangement of rules (using physical approvals if vital) it will stay an ethical framework. It is exactly at where this handicap is conquered that it is not, at this point right to talk about the principles being referred to as good guidelines, for to the degree that such standards are adequately implemented by physical authorizations they are laws. In the event that law contrasts from ethical quality concerning the kind of authorizations which it utilizes, it likewise varies, as per Hart, as for the method of their organization. Commonly, moral assents take the "type of a general diffused antagonistic or basic reaction". By Contrast, legitimate approvals are ordinarily directed by a concentrated authority organ which has the selective power to rebuff infringement of the law. Along these lines, when an individual break an ethical obligation some other individual from the ethical network to which he has a place may force the suitable. Obviously, the bigger society may essentially disregard the organization's utilization of physical assents. Insofar as the bigger society is to keep the organization from utilizing physical approvals, it is legitimate to discuss the order as being approved to utilize such endorses; when the bigger society is not, at this point ready to keep the group from utilizing physical assents, despite the fact that it keeps on guaranteeing that the organization is just one of its organs, the organization will in all actuality have obtained the status of a lawful framework. Insofar as the bigger society overlooks the group's utilization of authorizations, its capacity to keep the faction from utilizing them must stay in question. This uncertainty is expelled just when the two requests are brought into real clash.

4. John Austin on 'Sanctions'

As indicated by Austin "It is just contingent malice that obligations are endorsed or authorized". It is the force and the reason for causing possible malice and not the force and motivation behind conferring inevitable great which provides for the outflow of a desire the name of the order.

5. Kelson on 'Sanctions'

Kelson demands that ethical quality is no piece of law. Law has no ethical substance: there are no mala in se however just *mala prohibita delict* isn't outside law or a dismissal of law yet is inside law as the condition for forcing an approval. Nor is law as such naturally great: to hold that it is, subjects the positive lawful request to another *iusnaturalism* and in this manner gives an 'uncritical legitimation' of the request. In reality, if one somehow managed to surrender 'the decidedly fixed wilderness over against the ideas of profound quality and governmental issues', and check good and political standards and approaches into law, one would need to include in each factor affecting the formation of law—including the interests of gathering and class. Kelson broadens the idea of approval past the idea of response to explicit conduct, to incorporate responses to conditions that the state discovers unfortunate—capture on doubt, defensive guardianship, internment, seizure of property in the open intrigue. All these, even committal to an elimination camp, 'can't be considered as occurring outside the legitimate request'. Be that as it may, the idea of a law of law isn't broadened moreover. Here Kelson is tense. Inside his philosophical positivism, on one side his solid feeling of ethical quality and equity is dependent upon a request that equity be relative, an equity of resilience which in addition to other things is a social precondition for the act of science. In any case, he recognizes and buys in to the cutting-edge appearance of law as unimportant method. He portrays law as 'a particular social procedure for the accomplishment of finishes dictated by legislative issues' and the lawful researcher as a simple 'professional', not worried about the political points of the legitimate request being adjusted. This position is helpless against the Frankfurt School's study of philosophical positivism's privileging of specialized or instrumental discernment. The 'logical' approach is favoured as 'objective', while the for all intents and purposes sane explanations behind embracing and seeking after it are consistently effectively expelled from contention by

portraying all assessment as just passionate. In this point of view, Kelson benefits for the sake of science the instrumentalism whose outrageous results as law he loathes and of which he was almost a casualty.

6. Sanction Theory in International Law

Sanctions, under International Law, describes the penalties that are imposed upon states in pursuance of non-fulfilment of provisions of International Law.[2] These sanctions are imposed in order to maintain the condition for law and order in between the states. Penalties imposed under the International legal system are known as International Sanctions. Sanctions under modern International law are in contrast with the concept of sanctions under classic International law. Forcible measures are adopted against a country for executing an internationally illegal act. Countries must be held responsible for interrupting international amity and harmony. It is well known throughout the entire existence of global relations that more grounded and better-equipped states ask brought the powerless states to book for, by uprightness of the leader's entitlement to impose to the overpowered country its terms and conditions.[3] These internationally criminal and wrongful acts committed by states cover material damage, up to the most rigorous sanctions permitted by the international law.[4] The Conference For Security and Cooperation in Europe observed the need for sanctions under International law against those states who commit internationally wrongful acts. Legal sanctions are established by the law, to be more specific, positive law. These are derived lawful establishment and an instrument of making and reintegrating the lawful obligations.[5] There always is a string connection between sanctions under International law and the sanctions in the society. Under the ambit of International Law, there are two types of Sanctions: (1) Sanctions by States and (2) Collective sanctions.

Under the concept of Sanctions of States, the state who had been victimized by another state, that state is entitled to use their right of self-help, which states that the victim state can impose sanctions on oppressing state to seek revenge or to restore what has happened.

[2] Dumitra Popescu, *'Sanctions in international law in European integrity and Romanian law'* (Vol. IV, 2006), pg. 173-174.
[3]Dumitru Mazilu, *'Public International Law'*, (2nd ed., 2005) pg. 351-352.
[4] Grigore Geamanu, *'International criminal law and International Crimes'* (1977) pg. 278.
[5] Daniel Stefan Paraschiv, *'The system of Sanctions in the Public International law'* (2012) pg. 1.

Furthermore, collective sanctions are divided into economic, military and political sanctions. Under Chapter VII of the UN Charter, the United Nations can postulate economic, military and political sanctions. Economic sanctions include complete or partial severance of economic relations against a state. Military sanctions include the usage of air, water and land to seek or maintain international peace and security. Political sanctions include the victim state's appeal to the oppressing state to not to commit illegal acts. Non-compliance with such requests can lead to the expulsion of that state's membership from the United Nations.

7. Theories of Punishment in Jurisprudence

Punishment is a method by which a country perpetrates some discomfort to the individuals or property of the individual who is found responsible of crime. The motive behind enacting such chastisements is to protect the social order from malicious and detrimental elements by deterring culpable lawbreakers, by preventing the original lawbreakers from committing further offenses and by reforming and turning them into law-abiding citizens. In totality, there are four theories of punishment:

7.1 Deterrent Theory

As per this theory, the object of sanction or punishments isn't to just keep the offender from doing a wrong a subsequent time, yet in addition to make him a guide to other people who have criminal propensities. Salmond believes impediment parts of criminal equity to be the most significant for regulation of offenses. As indicated by Manu "punishment monitors the individuals, punishment ensures them, punishment stays alert when individuals are snoozing, so the savvy have respected discipline is a wellspring of exemplary nature.[6] "As indicated by Paton "The obstacle hypothesis accentuation the need of ensuring society, by so treating the detainees that others will be discouraged from overstepping law." The deterrent theory was the premise of discipline in England in the Medieval Period.[7] Cut off and Inhuman disciplines were structure of the day and exacted in any event, for minor offenses like burglary and other petty offenses. The offenders were exposed to the harsh

[6] James F. Stephen, *'A History of the Criminal Law of England'* (1883) pg. 81-82.
[7] Parson, *'The Structure of Social Action'* (1949) pg. 402-403.

chastiments of death by stoning and whipping. In India, during the Mughal time frame, the penalty of a capital punishment or mutilation of the appendages was forced in any event, for the unimportant offenses of phony and taking and so forth. Indeed, even today in canal of the Muslim nations, such as Pakistan, Iraq, Iran, Saudi Arabia, this hypothesis is the premise of Punitive Jurisprudence. In explicit deterrence, a sanction is planned with the end goal that it can alert the offenders.[8] In this way, this can change the crooks that are exposed to this hypothesis. Additionally, it is kept up that the discipline changes the crooks. This is completed by making a terror that the punishment will be rehashed. While a general deterrence is intended to avoid forthcoming wrongdoing. In this way, this is done by making an example of every defendant. In this manner, it strikes a sense of fear amongst the general public. This theory has faced a lot of criticism from legal scholars, the foremost being that this theory does not keep in mind anything about the victims of these criminals. Deterrence won't help the criminals in any manner.

7.2 Retributive Theory

This theory is one of the earliest explanations for punishments. This theory demands that an individual is worthy of a punishment as he has performed a wrong action. This theory elaborates that the punishment to be imposed must be equal to what the victim has suffered.[9] An individual is believed to be a wrongdoer if performed an offense of certain blameworthiness, also that he was responsible for the prevention of the offense.[10] The thought behind this theory of sanctions in jurisprudence is to make the offender to understand the enduring/torment.[11] The backers of this theory argue that the criminal has the warrant to endure. The enduring forced by the country in its corporate capability is viewed as the political partner of individual retribution.[12] It is emphasized that except if the criminal gets the discipline he merits, either of the accompanying impacts will result, to be specific, the casualty will look for singular vengeance, which may mean lynching (slaughtering or rebuffing brutally). According to Sir John Salmond the retributive purpose

[8] Jackson Toby, *'Is Punishment Necessary?'* (1964) pg. 533.
[9] V. N. Paranjape, *'Criminology and Penology'* (1983) pg. 115.
[10] Heinrich Oppenheimer, *'The Rationale of Punishment'* (1913) pg. 29.
[11] Edwin Surtherland & Donald R. Cressey, *'Criminology'* (1974) pg. 335.
[12] Jack P. Gibbs, *'The Death Penalty: Retribution and Penal Policy'* (1978) pg. 298.

of punishment consists in avenging the wrong done by the criminal to society.[13] The progressive criminology disposes of retaliation in the feeling of retribution, yet in the feeling of condemnation, it should consistently be a fundamental component in any type of theory.[14]

7.3 Preventive Theory

This theory has exercised a self-control that a guilty party if recurs the criminal deed is chargeable for death, outcast or detainment. The theory gets its significance from the thought that society must be shielded from lawbreakers. Accordingly, the discipline here is for defence and guard. The progressive criminologists saw the preventive theory from an alternate view. They previously understood that the social and financial powers ought to be expelled from society. Additionally, one must focus on people who show hostile to social conduct. This is a direct result of mental and organic impairments.[15] This theory is also known as the 'theory of disablement'. As per this theory, sanctions are based on the suggestion that crime should not be avenged, instead it should be prevented. This theory aims to put the offender out of action. The offenders are crippled from rehashing the wrongdoing by the way of punishments. The followers of this theory suggest that perceive detainment as the best method of discipline since it fills in as a powerful impediment as likewise a valuable preventive measure. Bentham bolstered the preventive theory as a result of its acculturating effect on criminal law.[16] There can be no case where the one who is responsible for making legislations makes certain direct criminal without his in this manner demonstrating a desire and reason to forestall that lead. Prevention would in like manner appear to be the head and just general motivation behind this theory. The law compromise certain agonies on the off chance that you do certain things, planning along these lines to give you another rationale in not doing them.[17] If one continues doing them, it is thus the duty of the law to put them in order. This theory focuses on the detainee and tries to keep him from committing act again later on.

[13] William Temple, *'The Ethics of Penal Action'* (1934) pg. 31-32.
[14] Immanuel Kant, *'The Metaphysical Elements of Justice'* (1965), pg. 102.
[15] T. Sellin, *'Experiments with Abolition of Capital Punishment'* (1967), pg. 124.
[16] Ahmad Siddique, *'Criminology: Problems and Perspectives'* (1983), pg. 69-70.
[17] Immanuel Kant, *'The Metaphysical Elements of Justice'* (1965) pg. 99-107.

7.4 Reformative Theory

This theory focusses on optimistic principles. Under this theory, the offender is made to go under rehabilitation which would try to make the offender a better person to live in the society. Furthermore, this theory makes the individual evocative which can contribute something to the society.[18] The object is to reform the criminal completely so that he/she might not commit the same crime again. The attitude of the offender is changed by the process of rehabilitation.[19] This theory focusses on reconstruction of the person who commits crime and changing his situations so that the crime does not happen again. If an offender is imparted with education and is told the consequences of his actions, he would not tend to commit the crime again. During his period of detention, he should be taught with several skills to earn his livelihood. This theory makes the criminal fit to live in the society after he leaves jail. The situations under which a crime is committed should be considered before a punishment is given to a criminal. The only criticism of this theory is that the concept of prison would be defeated and this would turn into a lodging home rather than being a jail.

8. Critical Analysis of Sanction Theory

While the sanction theory had merits, it has been subject to a lot of criticisms by legal scholars. H.L.A Hart starts the criticism of Austin's sanction theory by stating the gunman example. Hart says that a robber who goes into a bank to rob it and forces everyone to obey his orders. In such a situation, he says that not everyone would follow his order but would resist it, the same is with that 'sovereign' body which makes laws. Compliance with a legislation comes with a diverse sense.[20] Austin has failed to include within it the concept of 'rule'.[21] To start with, in numerous social orders, it is difficult to distinguish a "sovereign" in Austin's feeling of the word. Moreover, an emphasis on "sovereign" makes it hard to clarify the congruity of lawful frameworks: another ruler won't come in with the sort of "propensity for acquiescence" that Austin sets as a measure for a framework's

[18] Edwin H. Sutherland & Donald R. Cressey, *'Criminology'* (1974) pg. 336.
[19] Julican P. Alexander, *'The Philosophy of Punishment'* (1922) pg. 235.
[20] H. L. A. Hart, *'The Concept of law'* (1961), pg. 543-44.
[21] H. L. A. Hart, *'The Concept of law'* (1961), pg. 587-88.

standard producer. As respects Austin's "command" model, it appears to fit a few parts of law ineffectively (e.g., rules which sanction commands to authorities and to private residents, the sanctions for making wills, trusts, and agreements are models), while barring different issues (e.g., international law) which we are not slanted to bar from the category "law". All the more, by and large, it appears to be more twisting than edifying to lessen every legislative principle to one kind. An alternate analysis of Austin's sanction hypothesis is that a theory which depicts law exclusively regarding power neglects to separate principles of dread from types of administration adequately simply that they are acknowledged as genuine (or if nothing else as explanations behind activity) by their own residents. There have been several criticisms of the Sanction theory, some of them being:

8.1 **It neglects customary law**: Law doesn't generally emerge from a political leader. It has existed in the civilizations without the advanced commencement of the state and in any event even when individuals have no supremacy over them.[22] These practices and conventions were the apparatuses individuals utilized for social control and cultured existence. As per the theory of Imperative Law, customs were primeval law which are not law in the genuine sense, and just looked like law. Yet, the truth of the matter is, that a significant wellspring of Law is Customary law, which is rules and guidelines advanced by individuals after some time for self-administration. Without the presence of customs in the public arena, English precedent-based law could never have appeared, which utilizes standard law as its premise.

8.2 **Law is seen as 'Command'**: The main issue with law being an "command by the sovereign", is that there is no recognizable administrator in the cutting edge state. Present day majority rule governments depend on the possibility of Separation of Powers, and authority is spread over an enormous number of individuals. In this way, this thought gets superfluous in a period where governments and autocracies are uncommon and quick vanishing. The subsequent issue is that the majority of the Law that we have available to us, is conceived out of choices made by courts as and when inquiries of legitimate character have come up. An exceptionally little piece of law is really produced using essential or

[22] I. M. Weber, *'Economy and Society'* (1968) pg. 241-54.

appointed enactments. Hence, law appears to develop out of the elucidation of an issue and not a "command".

8.3 **The Concept of Sanctions**: As indicated by Austin, the essential capacity of state is to utilize power to execute sanctions. In any case, present day democratic countries have governments that serves the public and are chosen by them to guarantee their security and success, not utilize power on them. The power utilized by the state isn't the intensity of the state however the ability of the individuals to comply with the equivalent. Hence, Austin has an obsolete thought of State. The possibility that approvals must be forced through power is bogus. In International law, sanctions take up the type of fiscal and Political sanctions and are accomplished through global participation, not with the utilization of power. Truth be told, some International laws don't have sanctions by any stretch of the imagination, but numerous states keep them in view of a shared comprehension and acknowledgment of *opinio juris*, for example legitimate commitment. This discredits Austin's thought that sanctions are basics of law.

8.4 **Inapplicability with International Law**: Austin's thoughts are not relevant to International law since it has no concept of a ‘sovereign’. International law depends on the standards of international acknowledgment, participation, and discretion. There is no authority over countries. No global association can go about as a world government and expect sovereignty over all states. Hence, Austin's Imperative theory doesn't coincide with the existence of International Law.

8.5 **Inapplicability with Constitutional law**: Majority of the countries are governed on the legal premise of constitution. A constitution is a set of all rules and regulations that is to be followed by the people in that country. The Constitution is considered as supreme and no government has autocratic powers to impose sanctions on its people which are not in line with the constitution. Constitution is expected to be followed by everyone, even by the ones who hold a supreme or a ‘sovereign position in the country.

Equity is frequently portrayed as the finish of the law. Law consistently looks to protect, guarantee and engender equity, yet Austin totally separates law from any moral concerns. This is risky in light of the fact that with no moral targets, law can degenerate into

oppression and persecution of the individuals, and lead to extremist governments controlling law as per their impulses and likes. Salmond, a contemporary of Austin, says that a meaning of Law must incorporate both the solid and considerable piece of law alongside the theoretical, moral concerns it manages, and with no of the two segments, the definition is inadequate. Austin neglects to clarify the legitimacy of the sovereign. He utilizes defective roundabout thinking to clarify sway and law. He says that Sovereign is so in light of the fact that he orders law, and law is so on the grounds that it is instructed by the Sovereign. This doesn't clarify the authenticity of a sovereign.

9. Sanction Theory in Present Times of Covid-19

Where the whole world faces a lockdown situation because the novel coronavirus, Covid-19, administration in several countries are facing problems while imposing a nation-wide lockdown across their respective countries. Countries have started to impose sanctions on the violators of the lockdown to set an example and also to contain the spread of the infection. Our Hon'ble Prime Minister imposed a nation-wide lockdown following the Janta Curfew. This came as a surprise to a large number of people. While some of them try to be locked in their respective homes, a larger number of people are not able to stay at their homes, which in turn has led to the increase in total number of positive cases around the world. Especially in India, the police struggles to force a large population of about 1.2 billion to stay at their homes. To counter this issue, the police has obviously used some degree of force and violence, but they have used some unique ways too. Where the situation due to Covid-19 is in panic, countries have resorted to stricter laws and penalties for imposing the lockdown. The global scenario of sanctions used across the world can be best described by the following:

9.1 **India**: For the lockdown to be effective, the Disaster Management Act, 2005 was brought in action which issued directions and guidelines to the Centre, as well as all State/Union Territory governments to take effective measures to prevent the spread of COVID-19 in India. Sections 51 and 60 of the said act imposes sanctions in the forms of penalties which includes up to two years of jail time and certain fines. Section 188 of the Indian Penal Code also states that the offender be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred

rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. Sections 269 and 270 of the Indian Penal Code punishes offenders with imprisonment extending to 6 months and fine up to thousand rupees or both who tend to negligently and malignantly spread the infection of a disease dangerous to life.

9.2 **Britain**: The United Kingdom parliament has introduced the Coronavirus Act and the 2020 Health Protection Regulations 2020 confers upon the police powers to order people to return to their respective homes if found roaming across the territory without any reasonable cause. Failure with the orders of the police administration can lead to fines ranging from £60 to £960 depending on the gravity of the offence. Non-payment can lead to imprisonment and legal suits.

9.3 **Spain**: The royal decree which was passed in March, 2020 ordered nation-wide lockdown to contain the infection of the spread and to reduce the impact of the virus. Article 20 of the royal decree states various sanctions on those who are found violating the lockdown. The most recent legislation is the hugely controversial Citizen Security Law, otherwise known as the Gag Law. The offenders would be punished with fines ranging from €600 to €30,000, according to article 36.6. The fines start from €100 euros for lighter penalties, such as removing a police seal. Moreover, Article 556 of the Spanish Penal Code punishes the offenders who disobey the authorities in exercise of their duties with imprisonment of three months which might extend to one year.

9.4 **France**: In an effort to halt the spread of the coronavirus, the government has banned all the outside activities listing out a few exemptions. In the lieu of the new decree published in order to enforce the lockdown, France has imposed limits to contain people in their homes. Breaching the provisions of the new decree for two times would result in a €200 fine. Breaching the same orders for four or more than four times would risk a €3,700 fine and up to six months in prison.

9.5 **Italy**: Offenders who are found disrespecting the laws in force in Italy, would receive a fine of between €400 (£360) and €3,000 (£2,700); a significant increase from the previous maximum fine of €206 (£187). After Italy recorded the biggest death toll across the globe, stricter laws have been put to place which states that anyone who has been quarantined after testing positive for Covid-19 and "intentionally violates" the order to stay in their home could face a prison sentence between one to five years.

However, besides stricter sanctions put in action, a particular set of people always tend to violate the rules of lockdown. India witnessed a steep rise in the number of positive cases after a Muslim missionary movement known as 'Tablighi Jamaat' was found with a huge number of 2,500 people gathering together and worshipping their lord. Isolation was the only solution to put rest on the total number of cases in the country, however, people tend to flee from their homes and gather at events including marriages, birthday parties etc. Thus, the Sanction theory of jurisprudence has proved to be effective only for a certain set of society.

Even when we take a look at the worst pandemic situation till now, in 1918, the Spanish flu resulted in countless number of wives. This pandemic of 1918-19 was the deadliest flu outbreak in history. There were many ordinances across countries which made mask wearing a mandate for the people. The masks at that time were composed of gauze and were uncomfortable in wearing. Therefore, these masks faced a lot of resistance when they were introduced. This disregards the sanction theory as some people claimed that these mask ordinances were an infringement upon civil liberties. Countries faced a lot of struggle while imposing stricter mask-wearing rules.

10. Conclusion

Sanction theory in present theory has helped to curb the infection to some extent. However, according to the author, sanctions also confer arbitrary powers to the police administration. Police can arrest anyone irrespective of any reasonable cause and then collect fines. On one hand, greater fines have led to more corruption leading to police officers threatening to detain anyone who is unable to pay the fine, even if someone has a reasonable cause. On the other hand, greater sanctions have proved to be a good deterrent amongst the population

and has imbibed a thought of fear amongst the people. This way, people think twice before stepping out of their houses. Besides the criticisms that the Sanction theory has, the author feels that sanctions are important in a society as they are helpful in instilling a sense of fear amongst the public at large. In today's times, neither anyone wants to be detained nor they want to pay huge fines. In some countries, where the fines are not enough to detain people in their homes, there is a need for the government to impose stricter laws in place, so that less and less people step out of their houses. The present situation is very critical and thus sanctions are the best way to force people in their homes. Apart from just imposing sanctions, the author feels that the government must implement various schemes, advertisements, campaigns to educate people about the hazards the country of 1.2 billion people would face if the rules are broken.

However, there will always be people who would tend to violate the rules, no matter how strict they are. For them, their customary and religionary practises are of utmost importance and cannot be ignored, even in the times of a pandemic. This is yet another facet of criticism of the sanction theory. For example, there are strict laws for people who do not wear helmet while riding two wheelers in India, however, more than half of the country still violate the laws that are in place. Acceptance by the society is extremely crucial for successful implementation of a sanction. Thus, if one if adamant to not change his customary practice, he/she would never follow the rules, no matter how harsh is the sanction. The perfect example for this theory is the United States. The only reason why the United States faced a lot of deaths due to the novel coronavirus, is the lack of proper implementation of policies to restrict movement of the general public. Malls, modes of conveyance are still open for public, and no sanctions are being imposed on them. Janta-curfew limitations and lockdown could have disregarded the evil impact of opposing society if the same was supported by the approval or sanction component. Consequently, as such, the John Austin theory of sanction validates under present case the penalties as ,out of many, arrangement and is a need to maintain the evil impact made by the opposing society of people who trust themselves to be exempted to rule of will of the general public and hence endorse is the best way to manage this pandemic Covid-19.