

# AN OVERVIEW OF THE CONTROL OF INFECTIOUS DISEASES BILL

---

G.O. SODIPO AND CO.

NEWSLETTER

May, 2020 Edition

The Control of Infectious Diseases Bill which recently scaled the second reading at the House of Representatives is intended to repeal the National Quarantine Act, 2004. The Bill has 82 sections and 6 parts, covering every aspect you can think of; Administration, Control of Infectious diseases, Prevention of spread, Vaccination, Enforcement, and Miscellaneous. It seeks to strengthen the Nigeria Centre for Disease Control (NCDC) and empower the minister of health and director-general (DG) of the NCDC.

With the current pandemic (COVID-19), having an Infectious Disease Act will no doubt help the government curb infectious outbreaks, by providing a legal framework through which it can be managed. However, the bill is quite ambiguous and a lot of provisions are discretionary. It restricts the fundamental rights of the people and empowers the DG without any checks and balances.

The bill starts off with certain measures that could help stop the spread of infectious diseases.

Section 4 for instance, provides for the notification of infectious disease. Where a medical practitioner or a person in charge of a laboratory believes, suspects or becomes aware of the existence of a prescribed infectious disease in the course of treating a person, they should notify the DG. It further provides for a person who is aware or suspects that another person is suffering from a prescribed infectious disease or died whilst suffering from such to notify the DG and where such notification is not made the person in default shall be guilty of an offense under the proposed Act.

Section 7 and 12 raises concern, it provides;

7. "Where any person has died whilst being, or suspected of being, a case or carrier or contact of an infectious disease, the Director General may order a post-mortem examination of the body of that person for the purpose of —

(a) determining the cause or circumstances of the death of that person; or

(b) investigating into any outbreak or suspected outbreak of, or preventing the spread or possible outbreak of, that disease"<sup>1</sup>.

---

<sup>1</sup> Section 7, Infectious Disease Bill

12.- (1) “Where any person has died whilst being, or suspected of being, a case or carrier or contact of an infectious disease, the Director General may by order —

(a) prohibit the conduct of a wake over the body of that person or impose such conditions as he thinks fit on the conduct of such wake; or

(b) impose such conditions as he thinks fit for the collection, removal and disposal of the body of that person”<sup>2</sup>.

These sections give the DG power to order a post-mortem examination of the body and dispose of the body in order to prevent the spread of the infectious disease. However, it raises the question; what happens where religion demands the quick burial of such corpses, and they have already been put in the ground by their families. Section 12 leaves the decision to the discretion of the DG, as to how the wake of a suspected carrier should be conducted. Except an autopsy has been done, the case is still ‘suspected’, the bill should have provided in clear and simple terms, how the wake should be conducted pending the results of the autopsy.

Section 15 vests in the minister to declare any place an isolation centre;

“15.— (1) The Minister may, for the purpose of preventing the spread or possible outbreak of an infectious disease, by notification in the Gazette declare any premises to be an isolation area

(2) a notification under subsection (1) shall be effective until the expiration of such period as may be specified in the notification or until it is revoked by the Minister, whichever occurs first”<sup>3</sup>.

The above suggests that the Minister can acquire any premises as an isolation centre, without any prior notice. This not only interferes with the right to acquire and own immovable property anywhere in Nigeria<sup>4</sup>, it contravenes the provision of the Land Use Act<sup>5</sup>.

Section 24 is quite ambiguous;

“Every enforcement officer, police officer or any authorized officer may apprehend and take, any person suffering from any infectious disease whom the officer finds on any street, public place, shop or public transportation to a hospital”<sup>6</sup>.

How does the police officer, ascertain a person suffering from an infectious disease? By merely looking at them?! A person may have a simple cough and not an infectious disease, does that mean the police will apprehend them for coughing? The provision is ambiguous.

Similar to this provision is section 58;

---

<sup>2</sup> Section 12, Supra

<sup>3</sup> Section 15, Ibid

<sup>4</sup>Section 43 1999 Constitution of the Federal republic of Nigeria (as amended)

<sup>5</sup> Section 1, 28, and 29 of the Land Use Act 1978

<sup>6</sup> Section 24, Infectious Disease Bill

“58.— (1) Any police officer, or any Health Officer authorised in writing in that behalf by the Director General, may arrest without warrant any person committing or who he has reason to believe has committed any offence under section 11(1), 20(2), 22(4), or 55(8)”<sup>7</sup>.

The phrase “who has reason to believe”, is discretionary. And an arrest without warrant should not be left to discretion.

The bill as earlier stated not only empowers the DG and his delegates, section 71 removes accountability and creates no room for checks and balances.

“71. No liability shall lie personally against the Director-General, any Health Officer, any Port Health Officer, any police officer or any authorised person who, acting in good faith and with reasonable care, does or omits to do anything in the execution or purported execution of this Act”<sup>8</sup>.

This section to a very large extent will encourage misuse of power. It poses the Director-General as a dictator, one whose orders cannot be questioned.

Section 69, provides for penalties to offences not expressly provided in other parts of the Bill. In the case of first offence, a person will be liable conviction to a fine not exceeding N100,000 or to imprisonment for a term not exceeding 6 months or to both; and in the case of a second or subsequent offence, be liable on conviction to a fine not exceeding N200,000 or to imprisonment for a term not exceeding 12 months or to both.

In conclusion, the Bill is almost word for word plagiarised from Singapore’s Infectious Disease Act of 1977. The Singapore Infectious Disease Act 1977, was at a time when the country was under single party dictatorship led by Lee Kuan Yew<sup>9</sup>, which explains the harsh wording of the bill. It does not capture Nigeria as a democratic system; instead it poses the director-general and his delegates as dictators with no separation of powers.

The Infectious Diseases Act though a necessity, the Bill in itself is quite ambiguous and does not follow the rules of legislative drafting. It restricts the fundamental rights of the people and empowers the DG and his delegates without any separation of powers.

TENIOLA O. AKANNI

ASSOCIATE

[teniolaakanni@gosodipo.com](mailto:teniolaakanni@gosodipo.com)

[teniolaakanni@gmail.com](mailto:teniolaakanni@gmail.com)

---

<sup>7</sup> Section 58 ibid

<sup>8</sup> Section 71, ibid

<sup>9</sup>[https://en.wikipedia.org/wiki/Benevolent\\_dictatorship](https://en.wikipedia.org/wiki/Benevolent_dictatorship)

G.O SODIPO AND CO.,  
27/29 King George V Road, Onikan, Lagos  
Info@gosodipo.com  
b.sodipo@gosodipo.com  
+234 813 881 6290