

Prof Thomas Ulen's session on The Law and Economics of the Coronavirus Pandemic

Gandhinagar, August 27, 2020: Prof Thomas Ulen, Professor Emeritus of Law, University of Illinois addressed the students of the GNLU Academy on Law and Economics on The Law and Economics of the Coronavirus Pandemic with a focus on the USA.

Prof Ulen said that the coronavirus pandemic is the worst public health crisis in 100 years with more than 23.25 million infections and more than 8 lakh deaths globally. No other recent disease has been remotely as deadly or widespread. For example, during the SARS outbreak of 2003, a total of 8,000 people became sick worldwide, of whom 774 died. Similarly, in the Ebola outbreak of 2014-2016, there were 28,000 cases and 11,300, mostly in West Africa. There were only 36 cases and 15 deaths in the rest of the world.

Prof Ulen said that because the principal public health policy is a lockdown or stay-at-home policy, the economic costs of the pandemic are immense. 40 million people (almost one-third of the labour force) have filed for unemployment benefits in the period between March and July, the highest levels of unemployment since the Great Depression of 1929-1933. U.S. economy fell by 9.5 per cent in the second quarter of 2020. If that trend continues to the end of the year, that's a 32.9 drop in GDP for 2020. UK GDP is likely to drop 11.5 per cent this year. Germany's 2d quarter drop in GDP was larger than the U.S.'s 9.5%. China is the only country to have recorded an increase in GDP after the breakout of the pandemic. For the 2d quarter of 2020, PRC reported a 3.2 per cent increase in GDP over the 2d quarter of 2019.

Commenting on the public health management of the pandemic in the US, Prof Ulen said that Public health policy responses of the federal government have been weak, contradictory, politically motivated and not dictated by science. For example, the Trump administration initially took the pandemic very casually. In February, when the federal government had confirmed just 15 cases of the virus, President Trump said: "There are only 15 people with the disease, and soon there will be none. It's like a miracle; someday it will just disappear." As a result, a very crucial period of six weeks was lost. Had the federal government acted on time, at least 50 thousand lives could have been saved. Even after Trump declared a national emergency on March 13, the Center for Disease Control and Prevention (CDC) guidelines were first published and then disavowed by the President.

As the federal government did not institute a national policy, serious policy responses were left to the states and localities. But there was very little coordination among the states. Some states (mostly in the East and the Midwest and on the West Coast) imposed lockdowns and got control of the spread of the disease while other states did virtually nothing and allowed the disease to spread. There could be no restrictions on interstate movement; so, the disease spread with travel.

The predictable result of this patchwork of state policies is that the US could not get the desired number of cases below the level (under 10 new cases per 100,000 population) that will reduce the total number of cases. In July, the number of new cases per day in the U.S. rose to nearly 70,000,

much higher than it had been in April and May. This rise is now falling – to around 35,000 new cases per day. The new cases are mostly concentrated in the states that did not institute restrictions through governors’ emergency powers. The states that adopted emergency powers early have continued to see fewer new cases.

Prof Ulen observed that people are overoptimistic. They tend to use readily available information rather than objectively verifiable information. They don’t seem to assess the risks of the virus accurately and have confirmation bias. In deciding whether to wear masks, stay at home, we follow people who confirm our prior beliefs. For example, if we like President Trump, we think that the dangers of the coronavirus are exaggerated. If we follow public health experts and epidemiologists, we take more precaution.

Prof Ulen said that the pandemic has raised some legal issues with which we have never had to deal before. For example, most state governors have used their “emergency powers” to achieve public health measures. Question is can governors compel businesses to close, churches to shut, ban groups of more than 10 from gathering, ...? Yes, but for how long? Limited times? 30 days? Should there be fines for failing to wear a mask? Or for failing to isolate oneself after receiving a positive test for COVID-19? Should a business be fined or closed for failing to have customers observe social distancing or wear a mask? What about later in the process – should we compel or just incentive getting a vaccine for COVID-19? Currently, that is a purely individual decision. Only about 35 per cent of the population says that they will get a vaccine. Compelling them to get one sounds extreme. One scholar has recommended paying people \$1,000 to get vaccinated. What about compensation for business losses?

Prof. Ulen suggested that law and economics can help us deal with these legal issues, applying cost-benefit considerations and some economic and behavioural considerations.

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