

Review Article

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COVID-19 pandemic: a narrative review on legislative and regulatory framework in India for disaster and epidemic

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ABSTRACT

Public health legislation plays an important role in the containment of any epidemic or pandemic. During a pandemic, it might be necessary to override the existing laws or (individual) human rights for the containment of the pandemic. The objective of the study is to review the legal framework pertaining to COVID-19 pandemic preparedness in India. This study has been done as an unsystematic narrative review where various legislations were assembled from electronic data base, websites from various legislative and Ministries and discussion with experts. Owing to contain the spread of the novel coronavirus Government of India announced nationwide lockdown on 24th March, 2020. For proper implementation of lockdown measures various legislative laws belonging to different ministries is required. There are two pioneer acts namely The Epidemic disease act of 1897 and The Disaster management act of 2005. Under these two acts the government has laid down various rules and regulations that have to be followed during lockdown. This article describes the need for the law in a crisis like this and various legislations that have been implemented during lockdown.

Keywords: COVID-19, Disaster management act, Epidemic diseases act, Legislations, Narrative review

INTRODUCTION

Coronavirus disease (COVID-19) is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which first emerged in Wuhan region of China and then later spread to all around the world.¹ On 30th January, 2020 the outbreak was declared as Public Health Emergency of International Concern (PHEIC) and characterized as pandemic by the World Health Organisation on 11th March, 2020.² In India the first case of COVID-19 was reported on 30th January 2020, originating from China.³ A number of previous pandemics have been recorded in human history which were having a serious negative impact on health, economies, and even national security globally.⁴

In any public health disaster planning, there are four phases of comprehensive emergency management which are mitigation, preparedness, response, and recovery.

Mitigation involves preventive measures to reduce the severity of human and material damage. In the healthcare setting, the structural measures include infrastructure and human resource strengthening while the non-structural measures include laws, guidelines, and surveillance.⁵

Public health legislation plays an important role in the containment of both communicable and non-communicable disease.^{6,7} In the context of pandemic influenza, it is considered that social measures authorized by law play a better role in containment of the disease as compared to vaccines and drugs. Social distancing not only helps to reduce numbers of cases but also slows down the spread of the epidemic and flatten the epidemic curve and thus buys time for the production of a vaccine.⁸ In an influenza pandemic, it is quite difficult in diagnosis of mild cases thus, compulsory home isolation and quarantine were not effective measures of disease control. However, interventions like compulsory lockdown of

public places, travels and trades, schools, religious places etc where there is high chances of mass gathering along with disease monitoring and surveillance, case and contact management, trades and travel restrictions, improvement of personal hygiene and maintaining essential services were proved to be effective both in influenza outbreaks and in the SARS epidemic.⁹

During a pandemic, it might be necessary to override the existing laws or (individual) human rights for the containment of the pandemic. The WHO Influenza Pandemic Preparedness checklist has certain areas pertaining to legal framework which were intended for the best interest of community health. These include enforcement of quarantine, use of privately owned buildings for health-care facilities, off-license use of drugs, implementation of emergency shifts in essential services, travel or movement restrictions (i.e. on leaving or entering areas where pandemic influenza infection is established), closure of educational institutions, prohibition of mass gatherings, vaccination of health-care workers, workers in essential services or individuals at high risk.⁹

Since legislation plays one important role in controlling the pandemic, the objective of the study is to review the legal framework pertaining to COVID-19 pandemic preparedness in India.

REVIEW OF LITERATURE

This study has been done as an unsystematic narrative review where various articles, publications, legislations related to legal and regulatory frameworks based on COVID-19 pandemic preparedness were assembled.

Sources used for the review are:

- Preliminary search of literature using electronic databases like MEDLINE, Google Scholars, PUBMED, Cochrane Library using the Medical Subject Headings (MeSH terms) and the keywords are pandemic, epidemic, legislation, law, legal, regulations.
- Discussion with experts in the field of public health and legislation
- Manual search in Google on various legislative websites of India and various Ministries like Ministry of Law and Justice, National Portal of India, Ministry of Home Affairs, Ministry of Health and Family Welfare, Ministry of Civil Aviation and Indian Code
- Manual search on recent relevant publications
- Manual search from social media accounts like twitter for any amendment or updates on legislations

The content of the above literature was reviewed by various authors. The inclusion and exclusion criteria were kept open and analysis was done on the basis of the legal

checklist of WHO Influenza Pandemic Preparedness checklist.

DISCUSSION

This article focusses on major national and subnational legislation in India. The public health legislations related to the current COVID-19 pandemic are listed in Table 1.

After the declaration of COVID-19 as an pandemic, Epidemic Diseases Act of 1897 have been invoked in more than a dozen states and UT's and all the educational, commercials and private establishments have been shut down including suspension of tourists visas.¹⁰ On 24th March, 2020 a nationwide lockdown was implemented for 21 days which was further extended till 3rd May, 2020.^{11,12}

On the day of announcement of lockdown the Ministry of Home Affairs has set certain lockdown guidelines for the measures that have to be implemented by other ministries and Departments of GOI, State or Union Territory Governments and authorities for containment of COVID -19 epidemic in the country.¹¹

As per guideline no. 2-10, lockdown include shut down of offices of GOI, its autonomous / subordinate offices and public corporations, Offices of the state / union territory governments, their autonomous bodies and corporations, commercial and private establishments, industrial establishments, transport services, hospitality services, all educational, training, research, coaching institutions, places of worships and all social / political / sports / entertainment / academic/ cultural / religious functions. However basic essential services like health care, food and security, police services, public utilities like electricity, water, sanitation and CNG, LPG, PNG, banks, insurance offices, defence, fire and emergency, telecom and internet services remain functional exempting from the lockdown as per guidelines no. 1,2 and 4. Any person violating the above mentioned containment measures is liable to be proceeded against as per the provisions of section 51 to 60 of Disaster Management act, 2005, besides legal action under Section 188 of the Indian Penal Code (IPC) as per guideline no. 12.¹¹

However, there is a need of further strengthening of legal provision. The Union Ministry of Health and Family Welfare has drafted a bill Public Health (Prevention, Control and Management of epidemics, bio-terrorism and disasters) Bill, 2017 to counterstrike any emergency swiftly.¹³ With the implementation of this bill, the 100 years old Epidemic Law will be repealed. However, the bill was very restrictive and lacks clarity as suggested by experts.¹⁴ The existing legislations are largely restrictive in nature and all the public health issues during an emergency were not addressed in a single legislation. There is a need of efficient and effective legislation to combat all health emergencies in India and this should be

integrated from national level to local level to ensure stability during and after pandemic.

Table 1: Existing legal frameworks during COVID-19 outbreak.

Legislations	Aim	Actions during COVID-19 pandemic
Epidemic Diseases Act, 1897 ¹⁵	<p>This act was passed with the aim of preventing “the dangerous contagious disease”. It was a short legislation to stonewall the bubonic plague. Section 2 describes regulations that may be imposed by central and state governments to prevent outbreaks and section 3 states any person disobeying any regulation or order shall be deemed to have committed an offence punishable under section 188 of the IPC.</p> <p>Union Cabinet in its meeting held on 22nd April 2020 has approved promulgation of an Ordinance to amend the Epidemic Diseases Act, 1897 to protect healthcare service personnel and property including their living/working premises against violence during epidemics and to ensure that during any situation akin to the current pandemic, there is zero tolerance to any form of violence against healthcare service personnel and damage to property. The amendment makes acts of violence cognizable and non-bailable offences, shall be punished with imprisonment for a term of three months to five years, and with fine of Rs.50,000/- to Rs.2,00,000/. In case of causing grievous hurt, imprisonment shall be for a term six months to seven years and with fine of Rs.1,00,000/- to Rs.5,00,000/-.¹⁶</p>	The Cabinet Secretary of India on 11th March, 2020 announced that all states and Union territories should invoke provisions of Section 2 of the Epidemic Diseases Act, 1897. ¹⁷
Disaster Management Act, 2005 ¹⁸	<p>This act aims to provide for the effective management of disasters and for matters connected therewith or incidental thereto. Section 6 (2) i states other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary; Section 10 (2) i states to evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness. Section 51-60 states offences and penalties for obstruction, false claims, misappropriation of money or materials, false warning, offences by Dept of the Govt., failure of officer on duty, contravention of any order regarding requisitioning, offences by companies, previous sanction for prosecution and cognizance of offences.</p>	Ministry of Home Affairs invoked Section 6 (2) (i) and Section 10 (2) i on 24th March 2020 directing ministries / departments of Govt of India, State and Union authorities to prevent the spread of COVID-19 by ensuring social distancing. ¹⁹ Punishment and penalties for offences was directed on 24th March, 2020. Also the Ministry of Home Affairs invoked guidelines for lockdown on 24th March 2020. ¹¹
Essential Commodities Act, 1955 (ECA) ²⁰	To provide, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce, in certain commodities.	Ministry of Consumer Affairs, Food and Public Distribution invoked Section 2(A)2 to regulate the production, quality, distribution, logistics of masks (2ply and 3ply surgical masks, N95 masks) and hand sanitizers (for COVID 19 management) on 13th March, 2020 and Section 2(A)3 to regulate the price of masks and hand sanitizer up to 30th June, 2020 on 21st March, 2020. ^{21,22}
Essential Services Maintenance Act, 1981 (ESMA) ²³	An Act to provide for the maintenance of certain essential services and the normal life of the community. The objectives of this act is on one hand to enforce a lockdown to curb the spread of the virus and on other hand to ensure that our country can navigate through the challenges brought about by such lockdown by maintaining essential goods and services	Madhya Pradesh government has invoked the Essential Services Management Act (ESMA) on 8th April, 2020. The ESMA helps state governments maintain uniformity by providing minimum conditions of essential services across the state in the backdrop of disruption caused by the Covid-19 outbreak. ²⁴

The Aircraft Act, 1934 ²⁵	An Act to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft. Section 8 (B) states India or any part thereof is visited by or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient for the prevention of danger arising to the public health through the introduction or spread of the disease by the agency of aircraft, the Central Government may take such measures as it deems necessary to prevent such danger.	The Ministry of Civil Aviation invokes section 8B (1) to cease the operation of all scheduled domestic flights (except all cargo-flights) with effect from 2359hrs IST on 24th March, 2020. However this restriction shall not apply to aircraft/helicopter(s) belonging to or being operated on behalf of State/UT Governments. ²⁶
The Indian Ports Act, 1908 ²⁷	An Act to consolidate the enactments relating to ports and port-charges. Section 6 (p) states for the prevention of danger arising by the introduction and the spread of any infectious or contagious disease from vessels arriving at, or being in, any such port, and for the prevention of the conveyance of infection or contagion by means of any vessel sailing from any such port. Section 6 (p) ii states regarding medical inspections of such vessels and persons, 6 (p) iv about detention of such vessels and 6 (p) vii regarding cleansing, ventilation and disinfection of such vessels.	International cruise vessels arriving from foreign destinations are not allowed to call Indian Ports till 31st March 2020 although there is no impact on cargo vessels. Ministry of Shipping has directed to all ports for screening, detection and quarantine system for disembarking Seafarer or cruise passengers, to install thermal scanners and procure Personal Protection Equipment readiness. ²⁸
The Drugs And Cosmetics Act, 1940 ²⁹	An Act to regulate the import, manufacture, distribution and sale of drugs. Section 26 (B) states if the Central Government is satisfied that a drug is essential to meet the requirements of an emergency arising due to epidemic or natural calamities and that in the public interest, it is necessary or expedient so to do, then, that Government may regulate or restrict the manufacture, sale or distribution of such drug.	On 26th March, 2020 the Ministry of Health and Family Welfare invokes sale by retail of any preparation containing the drug Hydroxychloroquine shall be in accordance with the conditions for sale of drugs specified in Schedule H1 to the Drugs and Cosmetics Rules, 1945. ³⁰
Criminal Procedure Code ³¹	Section 133: Under this section, the court issues a conditional order for the removal of public nuisance. Section 144- Imposed power to the executive magistrate to restrict a particular or a group of persons residing in a particular area while visiting a certain place or area. This move was implemented to prevent a danger to human life health and safety	Section 144 was imposed COVID-19 pandemic and lock-down orders. ³²
Indian Penal Code ³³	Addresses offences affecting public health and provisions relating to infectious diseases specifically. Section 188 - Disobedience to order duly promulgated by public servant 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 Section 269- Negligent act likely to spread infection of disease dangerous to life. shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both Section 270- Malignant act likely to spread infection of disease dangerous to life. shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both Section 271- Disobedience to quarantine rule. shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both	Any persons violating the containment measures will be liable to proceed under Sec.188 of IPC. (11) Section 188, 269, 270, and 271 of IPC was imposed for the COVID-19 pandemic and lock-down orders. ³²

CONCLUSION

In certain emergent situations and epidemics, various legal measures are necessary to control the situation. Acts and legal framework should be well understood by public

health professionals for the benefit of the community at large.

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