

**INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES**

**[ISSN 2581-5369]**

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**Volume 4 | Issue 4**

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**2021**

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# Critical Analysis of the Indian Laws Relating to Recent Pandemics

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EKTA SOOD<sup>1</sup>

## ABSTRACT

*Today, we live in a world surrounded by epidemic popularly known as Covid-19 or Coronavirus. This virus easily spreads mainly because of close contact with other person. To avoid the transmission of this virus or to break the chain of Covid-19, government of our country along with other countries of the world imposed lockdown. Therefore, it is extremely important to understand the legislative intent behind the proposed lockdown. In India, the government, Centre or State, derives its powers to issue certain orders and instructions from the two key laws. They are: The Epidemic Diseases Act, 1897, and the Disaster Management Act, 2005. Apart from these two legislations, there are various other legislations under which government has powers to issue stricter orders.*

*This paper focuses on all the legislations under which our government is empowered to issue guidelines and instructions to control the present situation. But the question arises that all these legislations are age old and are these sufficient to control the pandemic in this current situation where population is much bigger and we have other issues to deal with. This paper critically analyzes the present laws that deal with the recent pandemics and also mentioned certain suggestions and recommendations to control this widespread pandemic.*

**Keywords:** *Pandemic, Coronavirus, Legislation, Regulations.*

## I. INTRODUCTION

The government adopted the strategy of nation-wide lockdown to combat the COVID-19 pandemic. COVID-19 pandemic leads to closed businesses, disrupted supply chains, extended timelines, and terminated contracts and it resulted in extraordinary economic losses in the organized sector. The situation in the unorganized sector is completely different as they are completely broken down and left with very little or no legal recourse. Lockdown has helped to contain the spread of this novel coronavirus. But it is very important to understand the legislative intent behind imposing the lockdown.<sup>2</sup> The spread of coronavirus challenges

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<sup>2</sup> Manuraj Shunmugasundaram, *India needs to enact a COVID-19 law*, THE HINDU (May 8, 2020, 1:49 AM), <https://www.thehindu.com/opinion/lead/india-needs-to-enact-a-covid-19-law/article31529036.ece>

systems of public health around the world. With the increase in the number of cases in India, the government has decided to combat this pandemic under the available laws. On March 24, 2020, PM Narendra Modi announces 21 days of lockdown in the whole territory of India. Until April 15, the government had suspended the provision of most visas. Under two key laws: The Epidemic Diseases Act, 1897, and the Disaster Management Act, 2005, the government derives its powers to issue certain orders and instructions during an epidemic.<sup>3</sup>

### **Background of the Covid-19 Pandemic**

Coronavirus disease (COVID-19) is caused by an extreme acute respiratory syndrome called coronavirus 2 (SARS-CoV-2), which first appeared in China's Wuhan region and then spread to the whole world. The epidemic was declared as a Public Health Emergency of International Concern (PHEIC) on 30 January 2020 and described as a pandemic on 11 March 2020 by the World Health Organization. In India, the first case of COVID-19 originating from China was recorded on 30 January 2020. In human history, several previous pandemics have been reported that have had a significant adverse effect on health, economies, and even national security globally.<sup>4</sup>

## **II. INDIA: LEGAL FRAMEWORK**

To curb the spread of novel Coronavirus, the Government of India has been vigorously working to flatten the curve as it is the greatest public emergency since Independence. The legislation that helps the Government to fight the spread of COVID 19 is the Epidemic Diseases Act, 1897 & the Disaster Management Act, 2005. The Epidemic Diseases Act aims to "better prevent an epidemic disease from spreading." The Act gives the State Government the authority, as may be appropriate, to enforce certain regulations "if the ordinary provisions of the law are insufficient" to repress the outbreak of a disease. Section 188 of Indian Penal Code, 1860 also made liable any person who disobeys an order made under this Act. Under this Act, the Central Government has the right to inspect or detain any vessels to avoid an outbreak. Under the Disaster Management Act, the government declared COVID-19 as a 'notified disaster'. To combat the COVID-19 catastrophe, the Central and State Governments have wide-ranging powers that are granted to them under the said Act. The Health Ministry, empowered by the Act, has ordered the National Pharmaceutical Pricing Authority to control the cost and

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<sup>3</sup> MALAVIKA RAJKUMAR, *CORONAVIRUS: A QUICK GUIDE TO THE LAWS THE INDIAN GOVERNMENT CAN INVOKE TO FIGHT EPIDEMICS*, SCROLL.IN (MAR 24, 2020, 12:30 PM), [HTTPS://SCROLL.IN/ARTICLE/957029/CORONAVIRUS-A-QUICK-GUIDE-TO-THE-LAWS-THE-INDIAN-GOVERNMENT-CAN-INVOKE-TO-FIGHT-THE-PANDEMIC](https://scroll.in/article/957029/coronavirus-a-quick-guide-to-the-laws-the-indian-government-can-invoke-to-fight-the-pandemic)

<sup>4</sup> Durgesh Prasad Sahoo, et.al., *COVID-19 pandemic: A narrative review on legislative & regulatory framework in India for disaster & epidemic*, 8 INT. J RES. MED. SCI. 2724

availability of sanitizers and masks. Under the Act, the concept of "disaster" has been interpreted to include biological disasters such as COVID-19.

A ray of hope for the future is the pending Public Health (Prevention, Control and Management of Epidemics, Bio-terrorism And Disasters) Bill, 2017. This model bill includes clauses clarifying the government's power to quarantine individuals and separate sick persons. It authorizes the central government, at the request of the situation, to take control of a specific state. Well-defined provisions such as these would make it far more effective to curb a pandemic's spread.

A country-wide lockdown under S. 6(2) (i) was declared by the National Disaster Management Authority in March 2020, of the Act. This has impaired citizens' freedom of movement and assembly, which, except for the provision of essential goods, is essential for the prevention of the spread of the virus. It is important to notice that S. 144 of CrPC has been imposed by some states to monitor, at its discretion, the situation. On account of incompetent or malignant acts, violators of the lockout are charged. People who escape from quarantine are also booked.<sup>5</sup>

The VII Schedule of the Indian Constitution inducts Public Health under the State List. Therefore, the state government has a great deal of discretion to adopt, pass, and implement legislation relevant to public health. State governments, by comparison, are not often financially prepared to take effective action. Another critical challenge is maintaining the necessary supplies during the epidemic era.<sup>6</sup>

### **(A) Role of Epidemic Disease Act, 1897**

The Epidemic Diseases Act, 1897 was intended to bring government machinery into motion until a serious epidemic disease is seriously threatened and not as a code for the creation of general public health programs. The law's rules appear to be harmless. It consists of four parts that provide the government with broad powers. State governments are allowed to monitor dangerous epidemic diseases. The government is empowered to monitor ships or vessels that depart or arrive in India. Disobedience to the laws is made a criminal offense when granting immunity to public officials for the execution of legislative duties. There is much to learn about the way the legislation has traditionally been enacted and used by the government.

While explaining the history of infectious diseases in India, SL Polu states that the government

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<sup>5</sup> Palak Kapoor, *The Legislative Framework to Combat Pandemics: An analysis of India and China*, RSRR (June 28, 2020, 2:30 PM), <http://rsrr.in/2020/04/14/the-legislative-framework-to-combat-pandemics-an-analysis-of-india-and-china/>

<sup>6</sup> Chiradeep Basak, *India is in need of an inclusive Public Healthcare Law to combat Pandemic*, JURIST (June 28, 2020, 2:55 PM), <https://www.jurist.org/commentary/2020/04/chiradeep-basak-public-health-law-india/>

mainly wanted to ensure compliance with international sanitary conventions in the formulation of the Act and medical policy to tackle epidemics, protect trade and alleviate any concerns abroad of the possible spread of plague or cholera outside India. The law is described by David Arnold as one of the most stringent pieces of sanitary legislation ever adopted in colonial India." (David Arnold (2000)) The measures that called for criticism included the forced detention of suspects of plague, the demolition of houses and contaminated property, the physical inspection of individuals and the prohibition of fairs and pilgrimages. It promoted mistrust of the Indian communities and opposition to action taken by the state. As a result, Arnold states that in favor of moderate steps such as increasing awareness of sanitation, promoting voluntary measures, and setting up institutions for medical study, the colonial government changed its policy.<sup>7</sup>

The particular act to prevent the spread of any harmful infectious disease is the Epidemic Disease Act of 1897. It is an empowering law that has given broad powers in this regard to the state and center government vide section 2 and 2A respectively to pass such regulations as it deems fit in this regard to prevent the spread or outbreak of any disease that is dangerous and where there is a threat of such outbreak or spread. The government is left with the word "dangerous" or "epidemic disease" to determine what kind of disease would be within the scope of this law and what will make that disease eligible to be dangerous, such as the death rate, spread rate, number of people affected, etc. Everything is left for the interpretation of both central and state government as this law is a special law for dealing with emergency precaution. However, this law does not take initiative to define various diseases and treatment in aircraft & vessels regarding these diseases. This act also addresses the fact that if the government feels that the existing law is not adequate to deal with the situation that has arisen, this act may be invoked, which makes the legislature's intention fairly clear that this act is very big in its scope. Sec 3 of this Act made certain acts punishable under Sec. 188 of IPC. Sec 188 of IPC deals with disobedience to public order promulgated by a public official and any person who causes danger to human life or safety by disobedience shall be punished with 6 months imprisonment. However, Sec 4 of this Act protects the government and its employees from any legal proceedings if acting under good faith. In addition to this act, several state governments, such as Madhya Pradesh, Himachal Pradesh, Punjab, Haryana, etc., have enacted their epidemic act, while some like Bihar have amended the law to include the power to call for vehicles in cases

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<sup>7</sup> Harleen Kaur, *Can the Indian legal framework deal with the COVID-19 pandemic? A review of the Epidemic Diseases Act*, BAR AND BENCH (June 28, 2020, 3:01 PM), <https://www.barandbench.com/columns/can-the-indian-legal-framework-deal-with-the-covid-19-pandemic-a-review-of-the-epidemics-diseases-act>

that it considers fit.<sup>8</sup>

The Epidemic Diseases Act of 1897 requires the state to control dangerous diseases by prohibiting travel and social discrimination.

### **(B) Disaster Management Act, 2005**

The Disaster Management Act is specially empowered to administer framework during the disaster situation and to take measures to deal with incidents of such disaster. It further empowers the government to have access to the funds created for the same.

It defines "disaster as a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area"

In simple words, it includes incidents such as flood, fire, or earthquake rather than a disease. However, on 14<sup>th</sup> March 2020, the Home Ministry of India declared the outbreak of novel coronavirus disease as 'notified disaster' thus bringing it within the ambit of the provisions of the Disaster Management Act.

The Central Government of India has invoked the Disaster Management Act to direct State Government to impose lockdown across the nation including the states and to restrict the public movement. Section 10(2)(1) of the Act allows the National Executive Committee to give directions to the State Governments regarding measures to be taken by them. The Act has been further used in tandem with the Epidemic Diseases Act with the latter providing the basis for containment measures such as the operation of flights landing in India was limited; the gathering was restricted to a fixed number of people.<sup>9</sup>

This is for the first time that the Act has been enforced by the National Disaster Management Authority (NDMA) after it has been enacted due to the deadly Tsunami in 2004 that killed an estimated 10,000 people.

The Central Government has imposed a lockdown of three weeks issued under Section 6 and Section 10 of the Act. The lockdown has given time to NDMA to prepare national-level plans

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<sup>8</sup> Sonam Chandwani, *What legal measures can be adopted by the government to control Corona Pandemic?*, LEXOLOGY (June 28, 2020, 7:00 PM), <https://www.lexology.com/library/detail.aspx?g=6731d185-270c-4ba3-b828-9c15f252db21>

<sup>9</sup> FP Staff, *Coronavirus Outbreak: The Disaster Management Act explained; it sits at the heart of fight against the pandemic*, FIRST POST (June 28, 2020, 6:33 PM), <https://www.firstpost.com/health/coronavirus-outbreak-disaster-management-act-provides-legal-backing-for-punitive-measures-allows-govt-to-access-emergency-funds-all-you-need-to-know-8190161.html>

for disaster management and to carry out their implementation through the disaster management authority of the states. Thus, the NDMA is the nodal agency in charge of containing the pandemic, coordinating and liaison with the state governments, and providing them with relief funds.<sup>10</sup>

The Disaster Management Act is specific for taking pre and post-disaster steps. Under the Act, the officers have been delegated with the power to do pre-disaster preparation for any threat they may foresee and for any post-disaster situation. The recent COVID-19 very well falls within the definition of disaster under Section 2 of the Act. The delegation under the Act vests with the Home Ministry, however, looking at the special nature of the pandemic, the Ministry of Health has been delegated with the authority to lay guidelines and ensure preparedness under the Act to deal with the situation. Accordingly, the Health Ministry has passed an order about limiting the price of sanitizers and masks which are essential commodities under this pandemic. The Act further provides sanction of punishment up to the term of 1 year for spreading false rumors during the disaster situation.<sup>11</sup>

### III. CRITICAL ANALYSIS OF EPIDEMIC DISEASE ACT (1897)

The Act is more than 120 years old enacted by the British Parliament to curb the situation that arose only in one part of undivided India i.e. the Bombay Presidency. The real motive of the British Parliament to pass the law can be gathered from the fact that the Act was misused by the British Officers to confine the freedom fighters so that public gatherings could not be conducted. To contain a nation-wide spread of Covid-19, the Act undoubtedly lacks legal force because the justification for bringing the Act was to deal with a regional outbreak of the bubonic plague in Bombay in 1896 and possibly similar circumstances in the future.<sup>12</sup>

The object of the Epidemic Act is more preventive than to curb or eradicate the disease which has already started to spread. The Act also does not define the term epidemic or disease. This Act also does not prescribe any measures to be followed at the time of the epidemic. The Act simply empowers to prescribe general temporary notifications if it thinks that the epidemic cannot be controlled by the existing laws of the land.

The Epidemic Act does not provide any guidelines for the formation of a special committee or

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<sup>10</sup> Times Now Digital, *As lockdown begins, Centre invokes Disaster Management Act to combat coronavirus pandemic – what this means*, TIMESNOWNEWS.COM (June 28, 2020, 6:45 PM), <https://www.timesnownews.com/india/article/as-lockdown-begins-centre-invokes-disaster-management-act-to-combat-coronavirus-pandemic-what-this-means/569314>

<sup>11</sup> SONAM, *supra* note 8

<sup>12</sup> Danish Aftab Chowdhary, *Legally Unsustainable?*, THE STATESMAN, 11<sup>th</sup> December 2020, <https://www.thestatesman.com/supplements/law/legally-unsustainable-1502882468.html>

disaster management team which can promptly act upon looking at the emergency rather than waiting for the nod of the state governments after considering other factors of the state.

The Act fails to provide any provisions for isolation of the human beings suffering from the epidemic and further does not provide any rules for making isolation centers. There should be provisions directing the state governments to build isolation centers in all hospitals and housing societies to be used at the time of the outbreak of the epidemic.

There is nowhere mentioned in the Act that how the vaccines and drugs can be distributed by the government. Therefore, the Act leaves no ground for the public at large to hold the government responsible for any kind of negligence on the part of the government in the court of law as there is no mechanism over which the government has to act upon. The provisions so provided for the state governments is rather a hit and trial method than being rigorous measures to control the epidemic.<sup>13</sup>

The Act utterly fails to resolve problems that are important to the environment of the 21st Century. Only land and sea routes are applied to by the Act. Since it was adopted at a time when air travel was scarcely operational, the Act omits entirely the reference to the control of diseases during air transport. This is one of the most critical topics currently in need of attention. It also lacks massive vaccine drives being introduced.<sup>14</sup>

#### IV. CRITICAL ANALYSIS OF NATIONAL DISASTER ACT, 2005

Section 2(a) of the Act defines 'affected area' as a disaster-affected area or part of the country' and it indicates that it refers to a particular area or designated area and does not anticipate simultaneous activity in the whole country. The elaborated definition of the term 'Disaster' does not include public health emergencies. Interestingly, the word 'public health' is provided for in the State List of the Seventh Schedule of the Constitution, and is contained in Item 6, which reads as 'Public health and sanitation; hospitals and dispensaries' and hence the notices from NDMA may be considered an infringement of the powers of the State.<sup>15</sup>

Because the pandemic-induced catastrophe is seen as a severe contingency scenario, it is undeniably true that it is highly important to enforce a strict lockdown and regulate the public movement. But as the pandemic progressed, in several instances around the nation, the

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<sup>13</sup> Pushkraj Deshpande, *The Epidemic Act of India 1897: An Analysis Vis-À-Vis The Covid-19 Pandemic*, MONDAQ (June 28, 2020, 1:58 PM), <https://www.mondaq.com/india/government-measures/928706/the-epidemic-act-of-india-1897-an-analysis-vis-vis-the-covid-19-pandemic>

<sup>14</sup> Aman Saraf, *A Critical Analysis of India's Epidemic Diseases Act, 1897*, JURIST (December 12, 2020, 11:09 AM), <https://www.jurist.org/commentary/2020/11/aman-saraf-india-epidemic/>

<sup>15</sup> DANISH, *supra* note 12



authoritarian state apparatus seemed to have overlaid its hand. Police abuse allegations, excessive monitoring, bureaucratic indifference and insufficient health assistance show the hazards amid such a crisis of lack of administrative transparency. In particular, the unemployed vulnerable migrant workers during the lockdown were not permitted to return to their native homes and were kept up by the government in the cities because of the spread of the infection. The Disaster Management Act of 2005 lays down in Entry 71 that, except in the High Court and the Supreme Court, the acts of the general, state and district administrative authorities cannot be questioned. The pandemic has significantly affected the functioning in India of these higher courts. It must be understood in this context that mere disciplinary steps will not be adequate to control the pandemic by implementing coercive state machinery to 'restraint' the people. Thus by describing the crisis as a catastrophe, during such a humanitarian crisis, the Indian state's tendency to tame the 'evil' and 'intrusive' virus by extreme repression seemed to have largely skipped the imperative of treatment.<sup>16</sup>

## V. THE POWERS OF STATE DURING COVID-19 PANDEMIC

Most of the Indian states including Delhi, Haryana, Karnataka, Maharashtra and Uttar Pradesh have invoked their powers under the law. This enables them to undertake Non-Pharmaceutical Interventions (NPI's) to mitigate the epidemic spread in absence of medicines to treat the disease. These NPI's so far includes the closing of educational institutes, gyms, mall, advisories on social distancing as well as regulation regarding home isolation and quarantine.

However, some of the regulatory provisions provide extensive powers to the government officials such as Bihar Epidemic Diseases COVID-19 Regulations 2020, Uttar Pradesh Epidemic Diseases COVID-19 Regulations 2020, Delhi Epidemic Diseases COVID-19 Regulations, authorizes government officials to admit and isolate a person in certain situation. This act can be done forcefully. The officers are also provided with the power of surveillance of individual and private premises. Lockdowns can be imposed by the District Magistrate. Further restrictions on free speech were imposed so that the fake news could not be spread to the public at large and only government-approved news regarding COVID-19 is published.<sup>17</sup>

## VI. OTHER REGULATIONS IN INDIA QUA PANDEMIC

India has enacted quite a few state legislations for public health. For example, Section 81 of The Madras Public Health Act empowers the government to make such rules as they deem fit

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<sup>16</sup> Ambar Kumar Ghosh, *Pandemic as a 'Disaster': Assessing Indian State Response*, ORF (December 11, 2020), <https://www.orfonline.org/research/pandemic-as-a-disaster-assessing-indian-state-response/>

<sup>17</sup> HARLEEN, *supra* note 7

for the treatment of persons affected with any epidemic and for preventing the spread of the same. Section 61 of the Act further contemplates the infectious diseases spread/transmissible through animals. Section 86 of the Cochin Public Health Act empowers the government to make rules as they deemed fit for the treatment of the persons affected by any epidemic or infectious disease. The Goa, Daman and Diu Public Health Act were also enacted on the same lines (Section 75).

However, concerning Covid-19, the Indian states have adopted regulations in furtherance of the Epidemic Disease Act which is quite similar to each other. The West Bengal Epidemic Disease COVID-19 Regulations mandate all government and private hospitals to Influenza-like illness or flu corners for the screening of suspected COVID-19 cases. Certain geographical areas can also be declared as containment zones by barring the entry of people or vehicles. Similarly, under Maharashtra Regulation for Prevention and Containment of Coronavirus Disease, the state Integrated Disease Surveillance Unit (under IDSP) and District Collectors have been entrusted with certain duties and obligations to combat COVID-19. Even the Municipal Commissioner is competent to implement containment measures in Maharashtra.<sup>18</sup>

## **VII. ALLIED INDIAN LEGISLATIONS VIS-À-VIS PUBLIC HEALTH**

India has certain public health enactments with an objective to prevent and control the spread of epidemic diseases. Such as, The Livestock Importation Act, 1898 primarily regulates the importation of livestock and livestock products that are likely to be affected by infectious and contagious disorders. Similarly, Section 4 of the Act empowers the state government to make rules for detention, inspection, disinfection, or destruction of imported livestock.

The Indian Ports Act, 1908 under Section 6 empowers the government to make rules for the prevention of danger arising to the public health by the introduction and spread of the infectious or contagious from the vessels arriving at, or being in any such port and for the prevention of the conveyance of infection or contagion using any vessels sailing from such port.

The Drugs and Cosmetics Act, 1940 under Section 26 B empowers the Central Government to regulate, restrict, or manufacture drugs in the public interest. If the central government is satisfied that the drug is essential to meet the requirements of the 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, by notification in the official gazette, regulate or restrict the manufacture, sale or distribution of such drug.

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<sup>18</sup> CHIRADEEP, *supra* note 6

Essential Commodities Act, 1955 allows for the regulation of the production, supply and distribution, and exchange and trade of certain goods in the interests of the general public. Section 2(A)2 to regulate the production, quality, distribution, logistics of masks (2-ply and 3-ply surgical masks, N95 masks) and hand sanitizers (for COVID 19 management) was invoked by the Ministry of Consumer Affairs, Food and Public Distribution on 13 March 2020 and Section 2(A)3 to regulate the price of masks and hand sanitizers up to 30 June 2020 on 21 March 2020.

Section 8(B) of Aircraft Act, 1934 states that India or any part thereof is visited or threatened with an outbreak of any dangerous infectious disease and that for the time being the ordinary provisions of the law in force are inadequate to prevent the danger posed by the aircraft agency to public health by the introduction or spread of the disease, the central government can take such steps as those taken by the aircraft agency. Section 8B(1) is invoked by the Ministry of Civil Aviation to cease the service of all scheduled domestic flights (except all-cargo flights) effective from 23:59hrs IST on 24 March 2020. This limitation shall not, however, extend to aircraft/helicopters affiliated to or working on behalf of the Government of the State/UT.

In the Criminal Procedure Code, 1973, Sec 144 empowered the Executive Magistrate to prevent a single individual or a group of persons residing in a particular area from entering a particular place or area. This move was introduced to avoid a threat to the health and safety of human life. COVID-19 pandemic and lock-down orders were placed under section 144.

Indian Penal Code, 1860 explicitly addresses offenses affecting public health and laws related to infectious diseases such as Section 188, 269, 270, 271. Section 269- Negligent actions likely to transmit life-threatening disease diseases shall be punishable by imprisonment of such a description for a period of up to six months, or by a fine, or both. Section 270- Malignant acts likely to transmit life-threatening disease infection shall be punished by imprisonment of either a description for a period of up to two years, or by a fine, or both. Section 271- Disobedience to the law of quarantine shall be punishable by imprisonment, either with a description for a period of up to six months, or with a fine, or with both descriptions.<sup>19</sup>

## **VIII. SUGGESTIONS/RECOMMENDATIONS**

First, national-scale biological disasters need close administrative and political cooperation, led by the Centre and followed by state governments, disaster management bodies, and other stakeholders. National and state political and administrative agencies should be more inclusive

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<sup>19</sup> Durgesh Prasad Sahoo, G. Alekhya, et.al., *COVID-19 pandemic: a narrative review on the legislative and regulatory framework in India for disaster and epidemic*, 8 INT. J. RES. MED. SCI. 2724, 2726-2727 (2020)

and consultative in the true spirit of the DM Act and the federal framework. Special attention needs to be provided to issues such as the movement of migrant workers, food availability, the arrangement of livelihoods for daily wagers, relief camps, entitlement to statutory minimum relief, etc., which directly affect millions in the nation. Incidentally, the 'Report of the Task Force to Review the DM Act' 2013 indicated that under the DM Act, the existing arrangement of multiple authorities is not conducive to the execution of the tasks it has been mandated to undertake.<sup>20</sup>

Secondly, the progress of the successful formulation of national and state decisions under the DM Act depends on its implementation at the ground level; the best bet remains for district administration and local self-government bodies. A concerted effort is required according to the mandate of the DM Act (Ss 30 and 41) to ensure that certain bodies are empowered administratively, politically, and financially. Third, constitutional courts ought to play their part in times such as these. There are complaints from different corners of the nation of discrimination, police excesses, malnutrition, lack of medical assistance, etc. Surely, there is a limit on judicial authority (S 71) and under the DM Act, there is no grievance redress procedure.<sup>21</sup>

The new Epidemic Diseases Act (Amendment) Ordinance, 2020 has made 7 years of imprisonment punishable for violence against health care employees. While it is certainly a step in the right direction, this change is far from adequate. First of all the Government of India should draw inspiration from the Regulations provided by the World Health Organization known as International Health Regulations. These Regulations set clear the Government's responsibilities and potential measures to resolve the situation. It is difficult to undermine the significance of these regulations-they bridge the gap between modern international norms and the colonial law of India.

Second, the government must also aim to strictly comply with the 2007 National Disaster Management Guidelines. The guidelines include a description of potential legal, financial, and administrative means of disaster control. It will allow a smoother functioning of health workers if these guidelines are enforced following the Act. Finally, the Bill of 2017 ('The Bill') of Public Health (Prevention, Control and Management of Epidemics, Bio-Terrorism and Disasters) defined the concept of an outbreak and provides several other interventions for health. This

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<sup>20</sup> M.P. Ram Mohan, *COVID 19 and the ambit of the Disaster Management Act*, THE WEEK (December 11, 2020), <https://www.theweek.in/news/india/2020/04/26/covid-19-and-the-ambit-of-the-disaster-management-act.html>

<sup>21</sup> Ibid

Bill was a much more detailed and progressive bill providing successful means of combating a pandemic in the 21st century. But, Parliament never adopted it and brought it into practice.<sup>22</sup>

## **IX. CONCLUSION**

The above study indicates that inefficient regulation and lack of control will lead to a global pandemic that claims the lives of thousands of individuals. Different legal steps are required to regulate the situation in some emerging circumstances and epidemics. The laws and legal system should be well understood for the good of the population at large by public health practitioners. In the first place, India lacks appropriate laws for a public health emergency. The government must establish a regulatory structure that can prevent and monitor the spread of such infectious diseases in the future and thus crotch evil in the bud.

An optimistic picture for India shortly is the latest trend in numbers and the continuation of the temporary lockdown. With the present enforcement of laws and prohibitions on the public, we can only hope that the dark cloud of the virus sails away. Priority should be provided to the health care system and it must be optimized to ensure the availability of immediate assistance, even in the most remote corners of the world. If India were to battle COVID-19 and will the number of cases effectively, it would be unfair to believe that we will be prepared for another deadly virus in the future.

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<sup>22</sup> AMAN, *supra* note 14