



BATTLING PANDEMICS

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Often matters related to science and technology have to be administered through regulations, laws, acts, treaties and other mechanisms. This happens both at the country level and even at the global level. In the monthly column “S&T Governance”, an attempt has been made to compile such issues and instances from the world over.



THE world has had to battle pandemics time and time again. It took a long time for humans to understand that viruses are the main culprits behind these epidemics and a large number of disabilities and deaths.

In ancient times, when people didn't know the reason behind the fast-spreading illnesses and casualties and there was no medicine available, they had no option but to try to combat the epidemics by means of changes in social behaviour. Societies practised isolation, imposed bans on travel or transport and resorted to maritime quarantine of persons. Kings and rulers issued orders and made social laws to fight against epidemics.

Later, each modern democratic country created its own Constitution. But often the Constitution alone is not sufficient to overcome all problems. Whenever any new challenge arises, there is a need to formulate new laws (within the constitutional limits) to govern behaviour.

The first law on medical isolation was passed by the Great Council of England in 1377 when the plague was ravaging populations in European countries. Detention for medical reasons was justified and disobedience made a punishable offence. The law prescribed isolation for 30 days, called a 'trentino'. Subsequently, many countries adopted similar laws to protect their people. When the duration of isolation was enhanced to 40 days, it was termed as 'quarantine', from the Latin 'quadraginta', which referred to 40-day detention placed on ships.

In India, around September 1896, cases of Bubonic Plague were detected in Mandvi (then in the Bombay Presidency, now in Gujarat). The plague epidemic spread rapidly due to the constant inflow of population, and there were almost 1900 reported deaths per week during the spread of the epidemic. India, then under the rule of the British Parliament, had to act swiftly to prevent the plague from spreading to the rest of the country. Then, the *Epidemic Act, 1897* was enacted by the British Parliament to curb the spread of plague. The *Epidemic Act* consists of four sections, which are amended from time to time as and when required.

Apart from the *Epidemic Act, 1897*, we have several other provisions of laws. *The Disaster Management Act, 2005* not only stipulates the national agencies and functionaries along with their powers and functions, but it also lays out a comprehensive framework within which the state, district and local level bodies are constituted and officials designated to discharge their assigned tasks and responsibilities in the management of disasters. As per the Act, the National Disaster Management Authority (NDMA) is responsible for "laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disasters". The lockdowns in the country imposed last year by the Government of India and subsequently by State governments and district authorities on the directions of the Union Ministry of Home Affairs fall under this Act. The reason assigned by the Supreme Court of India while

upholding the lockdown measures was that even if there is a conflict between the rights of an individual and public interest, the former must yield to the latter.

The responsible behaviour of citizens is expected during lockdowns imposed in such emergency, but in case of irresponsible behaviour by any person, a few common laws such as Section 144 of *Criminal Procedure Code, 1973 (CrPC)* comes into power to enable government officials to fight a pandemic. For the enforcement of the directions and orders by the government authorities, Section 188 of the *Indian penal code, 1860* enables governments to establish the punishment in cases of disobedience by any person.

Since medicines and drugs are essential commodities in the fight against epidemics, a proper and sufficient supply of necessary drugs is mandatory. Section 26B of *The Drugs and Cosmetics Act, 1940* empowers the Central Government to regulate, restrict, or manufacture drugs in the public's interest. 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 to do so, the Government may, by notification in the Official Gazette, regulate or restrict the manufacture, sale or distribution of such drugs.



These central laws, and other provisions of state laws that are not mentioned here, work together to provide a proper legal framework for governmental actions to combat the pandemic, but often these laws are not sufficient to cater to the needs of the dynamic challenges.

For instance, the Epidemic Act, 1897, is more than 120 years old, enacted by the then British Parliament to curb a situation that arose only in one part of undivided India. It does not give specific measures or directions to the government to follow at the time of an epidemic; rather it simply empowers the government to prescribe temporary notifications/

regulations if it thinks that the epidemic cannot be controlled by the existing laws of land. The Act is silent on how vaccines and drugs can be distributed by the government.

Similarly, the *Disaster Management Act, 2005* was enacted after the 2004 tsunami disaster. The National Disaster Response Fund which is provided under section 46 of the Disaster Management Act, 2005, proved inefficient in combating COVID-19 and the Government had to establish a new dedicated Prime Minister's Citizen Assistance and Relief in Emergency Situations fund. The inadequacy of laws also led the Central and State Governments to come up with the Epidemic Diseases (Amendment) Ordinance, 2020 to make any attack upon medical professionals a cognizable and a non-bailable offence. The Uttarakhand State Ordinance also penalizes the non-wearing of mask in public places.

Countries such as England (*Coronavirus Act, 2020*) and New Zealand (*COVID-19 Public Health Response Act 2020*) enacted specific legislations to cover divergent issues ranging from the food supply chain to the management of the deceased, measures to boost staff numbers for healthcare and social services; provisions in relation to workers' rights and entitlements; powers to facilitate remote operation of the court system, provisions in relation to the emergency financial

support measures, provisions in relation to local authorities and in relation to business and residential tenancies.

No pandemic can be overcome without making the people aware about the intricacies of the infection, its consequences and the importance of their collective social behaviour. Laws not only help people and other responsible officials and governments in fighting pandemics but also restrict the misuse of essential resources by vested interests.

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