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# **THE EPIDEMIC DISEASES ACT, 1897: A**

## **REVIEW FROM MEDICO-LEGAL ASPECT**

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### **INTRODUCTION**

In recent years, the entire world has seen a number of large outbreaks of emerging and re-emerging infectious diseases and India was not an exception to this as well. So far India is concerned, the outbreak of a cholera epidemic caused by the O139 strain in 1992, the outbreak of plague in Surat in 1994, the large-scale spread of chikungunya and dengue fever, and the outbreaks of avian influenza (H5N1) and pandemic H1N1 influenza were just a few of the events that caused widespread devastation. The nation's public health has been endangered in the previous ten years by the reappearance of diphtheria, outbreaks brought on by the Nipah, Chandipura, and Japanese encephalitis viruses, and Crimean-Congo hemorrhagic fever. Concern for the nation is raised by the occurrence of diseases including New Delhi Metallo-beta-lactamase (NDM-1)-resistant pathogens, drug-resistant tuberculosis, and malaria. Like in any other nation, diseases like the Zika virus and the Ebola virus that have the potential to spread internationally are a threat to India's public health security.

Because they outline the extent of the government's reactions to emergencies affecting public health as well as people's duties and rights, legal provisions are important in emergency situations. Several clauses of the Epidemic Diseases Act of 1897 have been invoked by many Indian states in recent years to mandate that H1N1 patients be segregated and treated at recognised hospitals, to order private hospitals to provide isolation treatment facilities, and to notify cases of dengue and H1N1 (2–4). The Epidemic Diseases Act of 1897 must be evaluated thoroughly in this case in order to ascertain its relevance today and if it has kept up with recent developments in disease monitoring, illness control, and the rights viewpoint globally.<sup>1</sup>

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<sup>1</sup> The Epidemic Diseases Act of 1897: public health relevance in the current scenario, INDIAN JOURNAL OF MEDICAL ETHICS, <https://ijme.in/articles/the-epidemic-diseases-act-of-1897-public-health-relevance-in-the-current-scenario/?galley=html> (last visited Nov 8, 2022).

## THE ISSUE

This article aims to provide a summary of the Act, including its essential features, historical context, and present status. It also intends to identify its limitations and shortfalls, as well as describe disease surveillance and response in the country. Finally, it intends to examine key sections of these legislations that are significant for updating Acts or reforms in this area and making recommendations.

## THE LEGAL FRAMEWORKS

Emergency planning, which includes preparedness, mitigation, response, and recovery, is an essential component of successful health disaster preparation. These processes invariably involve the development of plans, policies, and procedures, and comprehensive legal frameworks are unavoidably considered necessary to strengthen such planning. A strong legal framework for public health establishes the government's rights and responsibilities for protecting the people's health and preventing disease and harm.

Legal frameworks are crucial in emergency situations because they can specify not only the duties and rights of individuals but also the range of government actions that can be taken at the local, state, federal, and international levels in response to public health emergencies. However, there are other successful responses to a pandemic outside legal systems. While the law is very important in determining the role of state action, there are many other aspects as well, including culture, relationship between the community and the state, and the economic well-being of its citizens. Social measures that are permitted by law are just as crucial as medical interventions in the fight against communicable and non-communicable diseases.

## REVIEW OF LEGISLATIVE FRAMEWORK

To combat the future disaster, the Government of India has relied on the provisions of the Epidemic Diseases Act 1897. It is interesting to note that the law was implemented by the colonial authority after the 1896 plague outbreak that spread from Munchuria to Bombay. The objective of Act, briefly, is "better prevention of spread of dangerous epidemic diseases." The Act, which is applicable to all of India, gave the state the authority to take a number of actions.

According to Section 2(1) of the Act, the government may take, require, or grant authority to anyone to take such measures and, by public notice, prescribe such temporary regulations to be observed by the general public or by any individual or class of individuals, if the government believes that the state or any part thereof is threatened with outbreak of a dangerous epidemic disease.<sup>2</sup> Additionally, it gives the government the authority to enact laws governing the screening of passengers on trains and other modes of transportation as well as the segregation of patients suspected of having a certain disease while being treated in a hospital or other facility.<sup>3</sup> To enforce the provisions of the Epidemic Diseases Act, rules were also drafted.

The Government of India uses a two-pronged strategy to combat infectious diseases. First, we have a programme for selective vertical disease control that focuses on one disease at a time. This method is appropriate for endemic diseases. This method's high cost and lack of integration with general health services make it non-replicable and ineffective in containing infectious diseases.<sup>4</sup>

The second strategy is centred on the analysis and management of epidemics and outbreaks. This strategy works well for limiting epidemics in the near term, but not for endemic diseases.

Both strategies operate inside a formal administrative and legal framework and depend on community involvement to be successful.<sup>5</sup>

A review of the legal frameworks available will not be complete unless the legal frameworks are reviewed. In India, regulatory options include the Epidemic Act of 1897 and the Internal Health Regulations. The World Health Organization created and implemented International Health Regulations for diseases of national, regional, and global health security. The Epidemic Act of 1897 is the only Act that allows for legal intervention in the event of a subnational epidemic.

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<sup>2</sup> *Id.*

<sup>3</sup> Epidemic Diseases Act, 1897; Powers of the Central & State Governments? - Prashant Kanha | Advocate on Record AOR Supreme Court of India New Delhi, (2020), <https://www.prashantkanha.com/what-is-epidemic-diseases-act-1897-powers-of-the-central-state-governments/> (last visited Nov 8, 2022).

<sup>4</sup> Binod K Patro, Jaya Prasad Tripathy & Rashmi Kashyap, *Epidemic Diseases Act, 1897, India: Whether sufficient to address the current challenges?* 18 J MAHATMA GANDHI INST MED SCI 109 (2013).

<sup>5</sup> *Id.*

The four (04) major categories of public health interventions are biological, behavioural, political, and structural. The biological interventions are most frequently employed to control contagious diseases. They are the models of health based on the conventional biomedical theory.<sup>6</sup> Behavioural interventions are based on the social determinants model of health promotion and aim to change an individual's or community's behaviour. Political interventions take the form of recommending health-related policy. The last kind of public health intervention is structural, which is the outcome of a political process like the adoption of laws and regulations.<sup>7</sup>

## THE EPIDEMIC DISEASES ACT, 1897

On February 4, 1897, the Epidemic Diseases Act, 1897 went into effect in responding to the plague epidemic as it had occurred in Bombay. By enacting a number of stringent regulations that prohibited crowds from amassing, this Act includes the plague to Bombay.

The first section of this Act defines its title and scope. The second section gives state and federal governments the authority to adopt exceptional measures and issue rules that must be followed by the general public in order to prevent the spread of disease. The third section outlines the sanctions for breaking the rules, while the fourth section offers legal protection to those using the Act.<sup>8</sup>

The Epidemic Diseases Act, 1897, is described in Section 1 as applying to all of India, with the exception of the areas that, prior to the 1<sup>st</sup> of November 1956, were Part B states.<sup>9</sup>

Section 2 states that when the state government is satisfied that the state or any part thereof is visited by or threatened with an outbreak of any dangerous epidemic disease; and if it thinks that the ordinary provisions of the law are insufficient for the purpose then the state may take, or require or empower any person to take some measures and by public notice prescribe such temporary regulations to be observed by the public. The state government may prescribe regulations for inspection of persons travelling by railway or otherwise, and the segregation,

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Explained: Govt invokes Epidemic Diseases Act, 1897 to fight coronavirus; what is it? THE INDIAN EXPRESS (2020), <https://indianexpress.com/article/explained/explained-what-is-the-epidemic-act-of-1897-govt-has-invoked-to-fight-coronavirus-6309925/> (last visited Nov 9, 2022).

<sup>9</sup> Patro, Tripathy, and Kashyap, *supra* note 4.

in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.<sup>10</sup>

The central government is given the authority to check any ships or vessels departing or arriving at any port and to detain them as well as any individuals planning to board them or arriving on them.<sup>11</sup>

Section 3 prescribes penalty for disobeying any regulation or order made under the Act in accordance with section 188 of the Indian Penal Code. Under this provision, a punishment of 6 months imprisonment or 1,000 rupees fine or both shall be meted out to the person who disobeys any order under the Act.<sup>12</sup>

No action or other legal procedure shall be brought against any person for anything done or in good faith intended to be done under this Act, as stated in Section 4 of the Act.<sup>13</sup>

## LIMITATIONS OF THE ACT

It's legislative underpinning, the 113-year-old Epidemic Act of 1897, is out-of-date. A number of issues with the century-old Act have arisen over time as a result of evolving objectives in public health emergency management. The meaning of a serious epidemic disease is not stated in the Epidemic Act, 1897 that the law is silent on this issue. Furthermore, given that the Act is more than 100 years old, its territorial boundaries has to be reviewed.

The Act is silent regarding the legal structure governing the availability and distribution of vaccines and medications as well as the implementation of response measures, other from the isolation or quarantine measure. Regarding the moral considerations or principles of human rights during an epidemic response, there is no explicit reference. A modification is also necessary to the penalties for rules violations under section 188 of the Indian Penal Code. There are many unanswered questions regarding whether or not section 188 IPC can ensure

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<sup>10</sup> PS Rakesh, *Implementing the Epidemic Diseases Act to combat Covid-19 in India: An ethical analysis*, 06 IJME 13 (2021).

<sup>11</sup> Patro, Tripathy, and Kashyap, *supra* note 4.

<sup>12</sup> Epidemic Diseases Act, 1897; Powers of the Central & State Governments? *supra* note 3.

<sup>13</sup> Patro, Tripathy, and Kashyap, *supra* note 4.

justice for everyone who was harmed by the plague epidemic, which cost the Indian economy over \$600 million and claimed hundreds of lives.<sup>14</sup>

India has a variety of legal frameworks that can support public health initiatives in an epidemic crisis, but none of them are covered by a single piece of legislation. In order to adequately monitor the execution of the responses to an epidemic, it is important to combine all the rules into a single comprehensive public health law.

We are reliant on outdated, ineffective tools like the Epidemic Act of 1897 without a modern public health Act. To improve India's public health laws, ongoing attempts are made. The federal government created a Model Public Health Act in 1955 and again in 1987, but it was unable to persuade states to adopt these.

The National Health Bill 2009 seeks to provide a comprehensive legal framework for providing essential public health services, functions, and authority to address public health emergencies via effective collaboration between the federal government and the states.<sup>15</sup>

The Integrated Disease Monitoring Project (IDSP), which collects routine disease surveillance data to quickly identify and control disease outbreaks, is another initiative that was launched in 2004.<sup>16</sup> Every week, on an average, the states report 30–40 outbreaks to IDSP. However, it appears that while these protections are sufficient to handle minor emergencies, they are insufficient to handle pandemic-related large-scale health crises.

In response to the emergence of emerging and re-emerging infectious diseases and widespread global movement, the legal frameworks under a sound public health law infrastructure need to be strengthened in areas like mandatory vaccination, quarantining or isolation of suspected or infected patients, banning of mass gatherings, movement restrictions, closing of various institutions etc.<sup>17</sup>

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<sup>14</sup> The Epidemic Diseases Act of 1897, *supra* note 1.

<sup>15</sup> Sanjeev V. Thomas, *The National Health Bill 2009 and afterwards*, 12 ANN INDIAN ACAD NEUROL 79 (2009).

<sup>16</sup> Home: Integrated Disease Surveillance Programme (IDSP), <https://www.idsp.mohfw.gov.in/> (last visited Nov 9, 2022).

<sup>17</sup> Patro, Tripathy, and Kashyap, *supra* note 4.

## CONCLUSION

Therefore, it is beyond a shadow of a doubt that this century-old Act need a full revision to reflect the shifting priorities in public health. It is undeniable that public health experts might play a part in this. The National Disaster Management Act of 2005, which deals with public emergencies, is a good model for legislators to follow because it explicitly defines all the words and outlines all the implementing policies and organisations that will be put in place in the event of an emergency.<sup>18</sup>



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<sup>18</sup> Disaster Management Act, 2005, (2006), <https://www.epw.in/journal/2006/35/commentary/disaster-management-act-2005.html> (last visited Nov 9, 2022).