



Himachal Pradesh National Law University, Shimla (India)

*HPNLU*  
Law Journal

Journal Articles

ISSN:2582-8533

*HPNLU Law Journal*

Volume II (2021)

**COMPARATIVE INVESTIGATION OF EPIDEMIC LAWS: United Kingdom,  
United States of America and India**  
*Kartikey Mishra*

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Recommended Citation:

Kartikey Mishra, *COMPARATIVE INVESTIGATION OF EPIDEMIC LAWS: United Kingdom, United States of America and India* II HPNLU. L. J. 208 (2021).

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# COMPARATIVE INVESTIGATION OF EPIDEMIC LAWS: United Kingdom, United States of America and India

*Kartikey Mishra\**

*[Abstract: Ever since WHO proclaimed the spread of Coronavirus as a pandemic, many municipal governments have started enforcing their epidemic laws. It is not the first time that numerous municipal governments evoked their respective epidemic laws. There is a long history which is always accompanied with the improvement of law concerning epidemic. This paper brings forth a comparative and informative analysis of global epidemic laws in India. The article includes the fundamentals of the epidemic laws and the chief provisions that come in force in the epidemic. In addition to this, the article will discuss the further legal developments in the United States of America, the United Kingdom, and India amidst Coronavirus spread. The article will try to articulate the differences and similarities of global epidemic laws holistically with India and conclude with the possible recommendations for Indian Epidemic law.]*

## I

### Introduction

In December 2019, the Wuhan Municipal Health Commission reported on a cluster of pneumonia in Wuhan. On 5 January 2020, the World Health Organisation (WHO) declared news about a new 'virus.' Meanwhile, the virus started spreading around that area, and by the end of January, around 7000 cases were present in China alone.<sup>1</sup> During the peak period, there were more than five crore active Covid cases and these are still increasing globally.<sup>2</sup> Due to the constant rise in Covid cases, the Government's priorities with respect to medical has substantially changed and currently include supplying proper medical facilities and providing basic essential commodities to the public to prevent further ailment.

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<sup>1</sup> WHO, <https://www.who.int/news/item/27-04-2020-who-timeline---covid-19> (Apr. 27, 2021, 9:29 PM).

<sup>2</sup> WHO, *WHO Coronavirus (COVID-19) Dashboard, Overview*, available at: <https://covid19.who.int/>.

According to Sydenham Society's Lexicon of Medicine and Allied Sciences, epidemic disease is 'one prevalent among a people or community at a special time and produced by some special causes and present in the affected locality.'<sup>3</sup> It can be said that this is not the first time when India is witnessing a pandemic; previously, it had witnessed many epidemics, for example, the 'Bombay Plague' and pandemics like 'H2 N2 Virus 1957'.<sup>4</sup> The Bombay epidemic led the British India Government to pass Epidemic Diseases Act, 1897 for better administration.<sup>5</sup> Similar is the case with the United States and the United Kingdom, which had confronted many epidemics and pandemics in response to those; they had passed their epidemic laws. The epidemic laws are evolutionary and are accompanied by an extended history and struggle behind the passing of these.

## II

### Historical Background: Cross-country Analysis

#### *Historical Development of the Epidemic Law in the United Kingdom (UK)*

The legal development concerning epidemic started mainly in the 19th century; before that, certain principles already existed regarding epidemic explained hereunder.

In 1179, the 'doctrine of contagion' evolved nowadays, referred to as 'quarantine.' According to this doctrine, 'those infected with the disease were prohibited from going out and meeting others and required to live in isolation.'<sup>6</sup>

In around 14<sup>th</sup> century, also known as the *middle ages*, people struggled a lot with diseases like plague and leprosy (Hansen's disease), and they cured it mainly through sanitation and isolation.<sup>7</sup>

In the early 19<sup>th</sup> century, Europe got tormented by the cholera epidemic, which led to enacting laws concerning the epidemic, as explained below. This epidemic was easy to predict because of the uncontrolled shifting of the rural population to urban areas. The workers who changed their job from agriculture to industrial work, and their situation

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<sup>3</sup> J. N. Hays, *THE BURDENS OF DISEASE* 4 (1938).

<sup>4</sup> Centers for Disease Control and Prevention, *Past Pandemics*, available at: <https://www.cdc.gov/flu/pandemic-resources/1957-1958-pandemic.html> (Last visited Apr. 27, 2021, 9:30 PM).

<sup>5</sup> Muhammad Umair Mushtaq, *Public Health in British India: A Brief Account of the History of Medical Services and Disease Prevention in Colonial India*, 34 (1) INDIAN J. COMMUNITY MED. 6, 6-14 (2009).

<sup>6</sup> *Supra* note 3 at 25.

<sup>7</sup> *Supra* note 3 at 37.

was miserable in Europe; they remained poor and lived in congested locations.<sup>8</sup> During the cholera epidemic, the laws regulating that divided health authorities into two categories advocates of sanitarianism and public health advocates, the advocate of sanitarianism followed the 'principle of Quarantine' whereas the public health advocates used the methods of eliminating environmental pollution.<sup>9</sup>

This century led to massive economic, social, and technological transitions, and begun to learn to cope with the penalties of this transition. The uprooted populace was beginning to settle, reduced the social disorder, public health involvement had started to take effect, and infectious disease began to decline.<sup>10</sup>

The imperative legal development began in the UK with the constitution of the Poor Law Commission headed by Edwin Chadwick, which was constituted in 1830's. This commission explored the troubles of community health and suggested means for solving them.

The suggestion of this commission was the expenditures necessary in the adoption of preventive measures, which would be costing less in comparison to the cost medication of the disease constantly engendered.<sup>11</sup> Sanitary surveys proved that a relationship exists between communicable disease and filth in the environment.<sup>12</sup> The Poor Law Amendment Act was passed in 1834. It provided relief to the poor labourers who were working in the industries. Further, in 1840, the Health towns established under the instructions of Chadwick played a central role in bringing the 'sanitary idea.'<sup>13</sup>

Moreover, in 1847 the Poor Law Commission was replaced by the Poor Law Board. The replacement gave the poor law board the inherent power to seek accountability from the Parliament regarding the epidemic.<sup>14</sup>

In 1848, the British Parliament approved the Public Health Act that re-created the Central Board of Health. The Act empowered local boards of health 'to improve the drainage system, build sewers, compel the servicing of cesspools, pave and clean streets, deal with nuisances, inspect lodging houses and burial grounds, control the water supply, and raise local taxes to pay for it.'<sup>15</sup>

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<sup>8</sup> R R. Morris, *Margaret Pelling, Cholera, fever and English medicine*, 23(4) MEDICAL HISTORY 481 (1979).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> BRITANNICA, <https://www.britannica.com/topic/public-health/National-developments-in-the-18th-and-19th-centuries> (Apr. 27, 2021, 9:29 PM).

<sup>12</sup> Kara Rogers, *BATTLING AND MANAGING DISEASE* 7 (2011).

<sup>13</sup> Dorothy Porter, *HEALTH, CIVILIZATION AND THE STATE* 120 (2005).

<sup>14</sup> The Workhouse, *The 1834 Poor Law Amendment Act*, available at: <http://www.workhouse.org.uk/poorlaws/1834intro.shtml> (Last visited Apr. 27, 2021, 9:38 PM).

<sup>15</sup> *Supra* note 3 at 146.

Edwin Chadwick idea was transformed into legislation, and later on, his recommendations gave rise to a serious issue of general environmentalism.<sup>16</sup>

Further, England passed the Public Health Act 1875, which is presently working as the chief law. It was regarded as the epitome of public health legislation as no nation had made such a strong law like this.<sup>17</sup> The 1875 Public Health Act codified all existing sanitary legislation but also made its adoption compulsory. Every local authority was subsequently compelled to create a local board of health and employ a local health officer. The medical department of the Privy Council was amalgamated with the Poor Law administration into a new structure called the Local Government Board. However, this was not a clever decision; Board was dominated by the Poor Law authorities and starved of funds by the Treasury. The focus of health policy was shifted to the local districts for implementation and the professionalization of public health in national bureaucratic state service.<sup>18</sup>

The uncontrolled boom in population, lack of sanitation, and unconsciousness of the people determined the death of many in the 19<sup>th</sup> century. The death toll included millions of infant mortality, and all this was due to many diseases like measles, whooping cough, smallpox, and, above all diarrhoea. These unfortunate events compelled the authorities to pass laws to tackle the epidemic situation and administrate effectively. In the contemporary time in England, many legislations are in force in accord with the *gurun norm i.e.*, Public Health Act, 1875.<sup>19</sup>

### ***Historical Background of Epidemic Law in the United States***

The epidemic history of the United States can be traced around 14<sup>th</sup> century. The phrase 'quarantine' emerged in the United States in this century only, when trade was used to take place through sea, and people who arrived at port waited for 40 days before landing. This practice was named quarantine; it was done so that the spread of diseases can be averted.<sup>20</sup> It is not surprising that the towns of the original American colonies imposed first quarantines as early as the year 1647 when the Massachusetts Bay Colony enacted the first quarantine restriction in colonial America. This regulation required the quarantine of ships from Barbados because of the threat of plague.<sup>21</sup>

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<sup>16</sup> *Id.* at 147.

<sup>17</sup> *Supra* note 13 at 102.

<sup>18</sup> *Id.* at 126.

<sup>19</sup> LIBRARY OF CONGRESS, <https://www.loc.gov/law/help/health-emergencies/england.php#Structure> (Apr. 30, 2021, 9:29 PM).

<sup>20</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/quarantine/historyquarantine.html> (Apr. 30, 2021, 9:29 PM).

<sup>21</sup> L. Vanderhook Candidate, *A History of Federal Control of Communicable Diseases: Section 361 of the Public Health Service Act*, DASH, 2002, <http://nrs.harvard.edu/urn-3:HUL.InstRepos:8852098>

The frequent spread of epidemic diseases like plague, cholera, and smallpox evoked the occasional public efforts to protect citizens.<sup>22</sup> By the end of the 18<sup>th</sup> century, several cities, including Boston, Philadelphia, New York, and Baltimore, had established permanent councils to enforce quarantine and isolation rules.<sup>23</sup> These initiatives of this century reflected the new ideas about the cause and meaning of disease. Diseases were seen as more diminutive than the natural effects of the human condition and more than potentially controllable through public action.<sup>24</sup>

Edwin's report that was made in England by the Poor Law Commission influenced the US also, and because of Edwin's inspiration and work, a sanitary survey was conducted in several cities.<sup>25</sup> One of the most famous surveys was conducted by Lemuel Shattuck, a Massachusetts bookseller, and statistician. His Report of the Massachusetts Sanitary Commission was published in 1850. This report disclosed numerous issues that were revolving mainly around water and sanitary.<sup>26</sup> The report recommended regular surveys of people health conditions, proper management of clean water supplies and waste disposal, special studies required on specific diseases like tuberculosis and alcoholism, education of health providers in preventive medicine, local sanitary associations for collecting and distributing information, and the establishment of a state board of health and local boards of health to enforce sanitary regulations.<sup>27</sup>

Likewise, in New York, John Griscom published a report titled *The Sanitary Condition of the Labouring Population of New York* in 1848. This report eventually established the first public agency for health, the New York City Health Department, in 1866.<sup>28</sup> This course of identical length, boards of health mounted in Louisiana, California, the District of Columbia, Virginia, Minnesota, Maryland, and Alabama. By the end of the nineteenth century, 40 states and several local areas had established health departments.<sup>29</sup>

In the early 20<sup>th</sup> century, the US started shifting towards municipal Governance. Prior to this, the stand of governance as per the US Supreme Court municipalities has no inherent right of self-government beyond the legislative control of the State. A municipality was merely a department of the State, and the State may withhold, grant, or withdraw powers and privileges as it sees fit. However great or small its sphere of action, it remains the creature of the State exercising and holding powers and privileges subject to the sovereign will.<sup>30</sup> In this century, only the States began to enact statutes and

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<sup>22</sup> NCBI, <https://www.ncbi.nlm.nih.gov/books/NBK218224/> (Apr. 30, 2021, 9:29 PM).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *City of Trenton v. New Jersey*, 262 U.S. 182, 187 (1923); *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178 (1907).



amending their State Constitutions to provide substantial autonomy in the hand of municipal governments.<sup>31</sup> This process also involved municipal governments enacting charters to define the local government's powers; the municipal charter must be aligned with the local constitution.<sup>32</sup> This relationship between state and local governments is known as 'home rule,' which allocates to local governments specific areas of authority, with which the state government generally may not interfere.<sup>33</sup>

The role of the state and local public health departments improved substantially. As local authorities were the advantages of federal involvement, local quarantine stations were gradually turned over to the U.S. government. Additional federal facilities were built, and more staff was appointed so that better coverage can be provided. The quarantine system got fully nationalized by 1921 when the administration of the last quarantine station was transferred to the US government.<sup>34</sup>

Further, in 1944 to control the epidemic situation in the US, the US government passed the federal legislation Public Health Service Act, 1944. This Act was signed by the 32<sup>nd</sup> President of the US, President Roosevelt.<sup>35</sup> In the 20<sup>th</sup> century, the passing of this Act provided more power in the hands of the federal governments to impose quarantine. The following year, Congress passed legislation that further clarified the federal role in quarantine activities.<sup>36</sup> This Act consolidated the provisions concerning public health service. In several aspects, the Act broadens the ambit of Public Health Service functions. It provides the authority to make grants-in-aid to research institutions to study any disease, similar to the way the National Cancer Act of 1937 provides for cancer research.<sup>37</sup> It authorizes the expansion of the Federal-State cooperative public health programs and calls for establishing a national tuberculosis control program patterned after the venereal disease control program.<sup>38</sup>

Thus the passing of the Public Health Service Act, 1944 led to a turning point for the US Public Health management which contained provisions of health management for both wartime and peacetime, and it served as the epitome of legislation. In contemporary times, many other legislation and rules were working harmoniously with Public Health

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<sup>31</sup> Paul Diller, *Intrastate Preemption*, 87 B.U. L. Rev. 1113, 1124 (2007).

<sup>32</sup> LIBRARY OF CONGRESS, *available at*: <https://www.loc.gov/law/help/covid-19-responses/federal-state-local-responses.pdf> (last visited November 30, 2021).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> NCBI, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1403520/pdf/pubhealthrep00059-0006.pdf> (Apr. 30, 2021, 10:00 PM).

<sup>36</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/quarantine/historyquarantine.html> (May. 4, 2021, 9:29 PM).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

Service Act, 1944, like the Airline Guidelines, Cargo ship guidance, and Maritime resources.<sup>39</sup>

### ***I. Historical Background of Epidemic Law in India***

Being a third-world country, India has seen a plethora of epidemics like the 'Bombay Plague' and pandemics like 'Influenza' throughout its development. Numerous accounts of influenza, cholera, dengue, smallpox and several others have been recorded throughout history and successfully wiped out some; however, the legal development concerning the epidemic mainly began after the Bombay Plague.<sup>40</sup>

Mandavi (now in Gujarat) turned into an overcrowded port metropolis. It had a population of around 3200, and there were 1600 houses. It was the first vicinity wherein the Bombay plague broke out first, and the main reason was lack of sanitation, ventilation, and people had opened their godowns on the ground floor, which were full of rats.<sup>41</sup>

The plague could have been controlled at the primary stage, but residents of Mandavi, which was comprised of Banias, Bhatias, and Jain, opposed the killing of rats.<sup>42</sup> The British government could not implement their policies easily in the Presidency of Bombay; they confronted many difficulties, and eventually, they realised it is not possible to implement eradication of plague policies in Bombay without people's cooperation. Later on, the British requested collaboration with Indian leaders to enforce the policies.<sup>43</sup> Around 1896, a committee was formed to make people aware of this plague, the necessity of hospitalization and quarantine. Lokmanya Tilak played a leading role among Indian leaders in these controversies of 1896-97.<sup>44</sup>

In 1897, the Epidemic Diseases Act 1897 came in response to the Bombay plague, and it had only four sections. This Act gave the British authorities power to control the movement of people to restrict the transmission of epidemic disease, which was mainly responsible for spread.<sup>45</sup>

In 1950, when the Indian Constitution was implemented, then under all three lists provided under Schedule VII, the items relating to epidemic regulation were also contained.<sup>46</sup> The constitutional maker *per se* did not leave any power struggle issue in

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<sup>39</sup> *Id.*

<sup>40</sup> Swetha, V.M Eashwar, Anantha & S Gopalakrishnan, *Epidemics and Pandemics in India throughout History: A Review Article* 10, *IJPHRD* 1503, 1503 (2019).

<sup>41</sup> Cynthia Deshmukh, *The Bombay Plague (1896-1897)* 49 *Proceedings of the Indian History Congress* 478,478 (1988).

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 483.

<sup>44</sup> *Id.* at 483.

<sup>45</sup> *Id.*

<sup>46</sup> INDIA CONST.

this situation; the State and Union are free to act as per their discretion, but here also union law prevails since harmony is imperative for this situation.

In India, the Coronavirus, a global pandemic, is being managed mainly through Epidemic Diseases Act 1897, Disaster Management Act, 2005, and Indian Penal Code, 1860.

Thus, after the comparative analysis of the historical background of global epidemic law and India, it can be articulated that the law relating to the epidemic is evolutionary.

When the UK passed the law, it became the epitome for all other nations because of its wideness existing in the Act and well managed division of responsibilities; similarly, when the USA passed the law, their idea was comprehensive, in a way that they tried to inculcate Pre-epidemic preparatory functions and well managed division of responsibility which can help the nation to survive for long. Further, in India, the initial structure of the epidemic law was a nibble and mainly revolved around the restriction of movement, which was the main issue in India.

## ***II. Analysis of Global Epidemic Laws and India***

### ***1. Legislative Framework in the UK***

The Public Health Act, 1875, mainly comprises 343 sections and five schedules.<sup>47</sup>

Part I—Preliminary Part II—Authorities for Execution of Act Part III—Sanitary Provisions Part IV—Local Government Provisions Part V—General Provisions Part VI—Rating and Borrowing Powers, &c Part VII—Legal Proceedings Part VIII—Alteration of Areas and Union of Districts Part IX—Local Government Board Part X—Miscellaneous and Temporary Provisions Part XI—Saving Clauses and Repeal of Acts.

Public Health Act, 1875 is a comprehensive statute; it covers a plethora of things like management of drainage system, sanitary and funds, etc., which is directly or indirectly connected with public health in both standard and epidemic situations.

Under the Public Health Act, 1875, the epidemic situation is regulated mainly through Part III.<sup>48</sup> The power to make rules for the epidemic situation is in the hand of the Local Government Board, and those individuals who are not obeying the rules drafted have to pay the fine of fifty pounds.<sup>49</sup>

Under the aforementioned Act, power has been given to the local government board to make regulations to prevent diseases. Whenever there is a situation of the epidemic in any part of England, then the local government board may make or alter or revoke rules

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<sup>47</sup> LEGISLATION.GOV.UK, <http://www.legislation.gov.uk/ukpga/Vict/38-39/55/enacted/data.pdf> (Apr. 27, 2021, 9:29 PM).

<sup>48</sup> *Id.*

<sup>49</sup> Public Health Act, 1875, §.130 No. 50, Act of Parliament, 1875 (England).

regarding (1) For the speedy internment of the dead, (2) For the house to house visitation (3) aid and accommodation of medical, better ventilation, guarding the spread of disease and cleansing, etc.<sup>50</sup>

Under the aforementioned Act, another section deals with the epidemic situation; it mainly says that the local government board, if it deems fit, may authorize any two or more local authorities to work together to prevent epidemic diseases. The board will decide how they will merge and the mode of joint action to be taken by combined authorities.<sup>51</sup>

So, these were the main provisions of the Public Health Act, 1875, which dealt with the Epidemic situation in the UK. This Act is not the only law that deals with Epidemic situations, and there are many other laws and rules that the British Parliament makes, like the Public Health (Control of Disease) Act, 1984.

The current Health emergency administered in the UK through different Laws and government systems has created a kind of structure that works in a health emergency, i.e., N.H.S Emergency Planning Guidance 2005.<sup>52</sup>

### *1.1 Legal Developments which took place amid Coronavirus (UK)*

The significant development in the UK recently was the passing of the Coronavirus Act, 2020, by the UK parliament. The main principles of the Act are to increase the health and social care workforce, to provide support to those who are vulnerable, like at the age of 70 or those suffering from long term health issues or pregnant women. The Act contains a sunset clause, which means that it will end after two years, but the Secretary of State can extend or shorten the period, and there are exceptions.<sup>53</sup> The police had been provided with extensive power as compared to normal time.<sup>54</sup> They might punish an individual if he left his house without having a reasonable excuse. The work of the Court and tribunal had been shifted to online, and even some of them remain suspended.<sup>55</sup> In a holistic view, it can be said that the Act contains many provisions which are dealing either directly or indirectly with regulating the spreading of Coronavirus.

The 'rule of six' was introduced in the UK, which simplifies and strengthens the rules on social gatherings, making them easier to understand and more accessible for the police to enforce. As per this law, any social gathering except work and education would

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<sup>50</sup> Public Health Act, 1875, §.134 No. 50, Act of Parliament, 1875 (England).

<sup>51</sup> *Id.*, §.139.

<sup>52</sup> LIBRARY OF CONGRESS, <https://www.loc.gov/law/help/health-emergencies/england.php#Structure> (Apr. 27, 2021, 9:29 PM).

<sup>53</sup> Alec Samuels, *Coronavirus Act 2020: An overview by a lawyer interested in medico-legal matters*, 88 (2) *Medico-Legal Journal* 86 (2020).

<sup>54</sup> LEGISLATION.GOV.UK, <https://www.legislation.gov.uk/ukpga/2020/7/data.pdf> (Apr. 27, 2021, 9:29 PM).

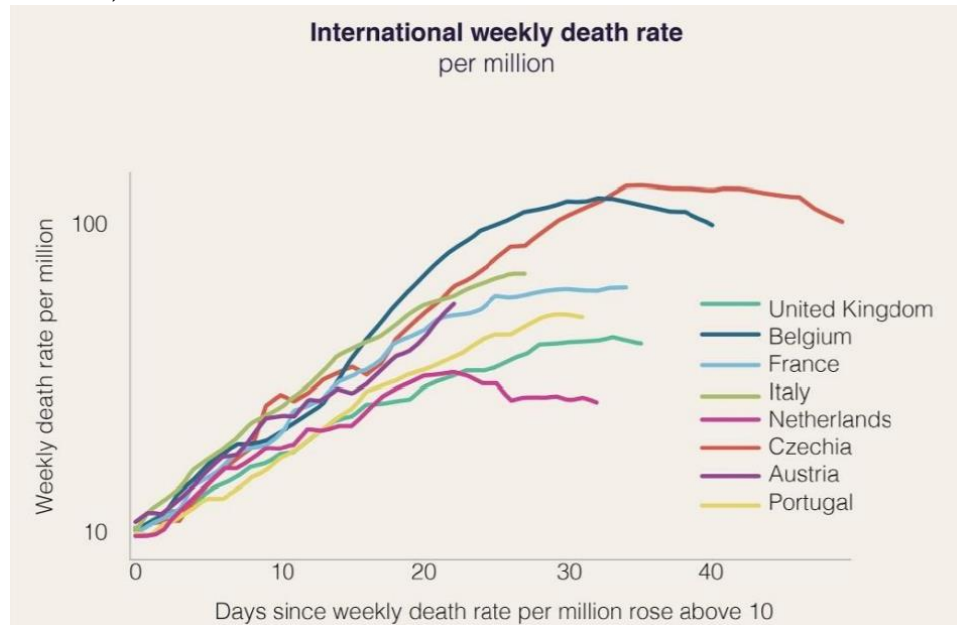
<sup>55</sup> *Id.*

be against the law, and those who break the law will be fined £100, doubling up to a maximum of £3,200.<sup>56</sup>

In the case of organisers and facilitators of gathering more than 30 people, such as unlicensed music, events can be subject to fines of up to £10,000.<sup>57</sup> Following Coronavirus guidelines, places of worship, gyms, restaurants, and other hospitality venues can still hold more than six people in total. But within those venues, there must not be individual groups larger than six, and groups must not mix socially or form larger groups.<sup>58</sup>

In November 2020, apart from Coronavirus Act, 2020 the UK Government introduced 'The Winter Plan' for extinguishing the Coronavirus, protecting the health of the vulnerable, and bringing the economy back on track.

**Figure 1. COVID-19 deaths across Europe Impact of the second wave across European countries)<sup>59</sup>**



Source: ECDC

As per the above graph, the death rate in Europe is above 100 in some countries, which shows that Europe is experiencing the second wave of Coronavirus. The first wave was

<sup>56</sup> GOVINFO.GOV, <https://www.gov.uk/government/news/rule-of-six-comes-into-effect-to-tackle-coronavirus> (Apr. 27, 2021, 9:29 PM).

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> HMGVERNMENT, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/937529/COVID-19\\_Winter\\_Plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/937529/COVID-19_Winter_Plan.pdf) (Apr. 30, 2021, 9:29 PM).

brought under control in most European countries in April, but in August, infections began to rise again. Between 18 August and 1 September, Spain rose 55%, France 123%, and Italy 161%. At first, many neighbouring countries appeared to keep infection rates low.<sup>60</sup>

However, through September and October, the infection began to spread in most European countries. There are now 12 countries in Europe with a weekly case rate of over 400 per 100,000.<sup>61</sup>

The winter plan has divided the areas in the UK into three tiers, Tier 1 (Medium Alert), Tier 2 (High Alert), and Tier 3 (Very High Alert). The first tier will allow meeting and gathering six people, closing pub, bar, and restaurants by 11 pm. Shops like retail, entertainment, and personal care will be open, Work from home is to be given priority, and Early setting education, schools, college, and universities will open.<sup>62</sup> Tier two plan will put more restrictions on the movement of people, and pubs and bars can only open if they are operating as restaurants, places of worship will be open. Still, the restriction will be there and similar guidelines for education and work.<sup>63</sup> Tier 3 will restrict the mixing of household, pub and bar will be closed, the journey will be restricted as much as possible, no impact on work and education.<sup>64</sup> The UK had also made plans for Christmas and New Year Eve to curtail the public gathering and said it would not be possible to celebrate Christmas in the 'normal way.'<sup>65</sup>

So, the winter plan shows that the UK is concerned about their economy, so they have allowed working in even all three tiers. Also, the plan had well tried to reduce the spreading of the virus by penalizing the crowd.

The vaccination policy in the UK, three vaccines targeting the S protein have been authorized for supply; two use an mRNA platform (Pfizer BioNTech COVID-19 mRNA vaccine BNT162b2 and Moderna mRNA-1273 COVID-19 vaccine), and the third uses an adenovirus vector (Astra Zeneca COVID-19 vaccine).<sup>66</sup>

### *The legislative framework in the USA*

This Act incorporates over 3000 sections, but not all sections are relating to epidemics. The chief provisions dealing with the epidemic situation are given under Part B and Part G of the Public Health Service Act, 1944.

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<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> HMGOVERNMENT,

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/984310/Greenbook\\_chapter\\_14a\\_7May2021.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/984310/Greenbook_chapter_14a_7May2021.pdf) (May. 25, 2021, 9:29 PM)

### *Part B is the Federal State Cooperation.*

Section 311 gives power to the secretary of the State to take indispensable steps for personnel, equipment, medical supplies, and other necessary resources required to control the epidemic effectively or any other health emergency.<sup>67</sup>

Section 317 F talks about the Epidemic Intelligence Service Program to enhance health professionals in the State; they give \$1,000,000 for each of fiscal years 2019 through 2023.<sup>68</sup>

Section 317G Fellowship And Training Programs. Under this section secretary of the State, acting through the Director of the Centers for Disease Control and Prevention, shall establish a fellowship and training program to be conducted so that individuals can be trained to develop the skills in epidemiology, surveillance, laboratory analysis, and other disease detection and prevention methods.<sup>69</sup>

Section 319 deals with Public health emergencies; if the Secretary of the State is satisfied after consultation with health officials as may be necessary to prevent health emergency, under this provision only, Public Health Emergency fund to cope with the needs of a health emergency. Utilization Guidelines.—The Secretary shall ensure timely and accurate recommended utilization guidelines for qualified countermeasures (as defined in section 319F–1), qualified pandemic and epidemic products (as defined in section 319F–3), and security countermeasures (as defined in subsection (c)), including for such products in the stockpile.

Section 319F-3 deals with Targeted Liability Protections for Pandemic and Epidemic Products and Security Countermeasures. In this provision, different definitions like covered countermeasure, pandemic or epidemic products, security countermeasure, etc., are also defined; in this section, only guidelines are provided regarding packaging, marketing, and products.<sup>70</sup>Mainly the above provision is filled with a plethora of definitions that are required to be interpreted at the time of Epidemic or health emergency.

Section 319L encourages Advanced Biomedical Research and Development of the products qualified as countermeasures in a health emergency or Epidemic situation.<sup>71</sup>

### *Part G Quarantine and Inspections*

Section 361 deals with the power of the Surgeon General, who is responsible for making and enforcing such regulations that are necessary to prevent the transmission or spread of disease from foreign states into the States.

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<sup>67</sup> Public Health Service Act, 1944, § 311 (c) (1) No.42 of Congress, 1944 (USA).

<sup>68</sup> Public Health Service Act, 1944, § 317 F (2) No.42 of Congress, 1944 (USA).

<sup>69</sup> *Id.*, §. 317G.

<sup>70</sup> *Id.*, §.317F3.

<sup>71</sup> *Id.*, §.319L (6).

The Surgeon General may provide for such inspection, fumigation, disinfection, sanitation, pest extermination, destruction of animals or articles found to be so infected or contaminated as sources of dangerous infection to human beings, and other measures, as in his judgment may be necessary.<sup>72</sup>

Section 362 primarily deals with the suspension of Entries and Imports from designated places. Suppose the Surgeon General determines a fear of communicable disease from foreign states into the United States. In that case, he may suspend the introduction of persons, properties in public health.<sup>73</sup>

Section 363, primarily concerned with wartime, protects the forces and war workers of the United States. In consultation with the Surgeon General, the secretary may be authorized to provide rules for examination in wartime and probable source of infection to the member of armed forces of the United States or to the individual who are engaged in other work of war.<sup>74</sup>

Section 368 is a penalty provision. Any person who violates regulations prescribed under section 361, 362, or 363, or any provision of section 366 or any law prescribed hereunder, or who enters or departs from the limits of any quarantine station disregard of quarantine rules and regulations or without permission of the quarantine officer in charge, shall be punished by a fines of not more than \$1,000 or by imprisonment for not more than one year, or both.<sup>75</sup>

If any vessel which enters with or departs from the limit, which is marked as a quarantine station, ground without permission, then the officer in charge shall forfeit. It further says with the Secretary's approval, the Surgeon General may, upon application, remit or mitigate any forfeiture provided for under subsection (b) of this section, and he shall have authority to ascertain the facts upon all such applications.<sup>76</sup>

Under the aforementioned Act, there are many provisions which are dealing with Health emergency like collaboration, different activities under different Acts, Civil Air navigation and Civil Aircraft, duties of Consular and other officers, etc. however, and it's not viable to discuss all provisions of the Act. The above provided provisions are the chief provisions that deal with Epidemic and in later provisions, and the explanations are provided.

### *2.1 Legal Developments took place in amid of Coronavirus (US)*

The response of the federal government and local government in amid of Coronavirus was comprehensive. The federal government has enacted laws to promote the economy and promote a vigorous public health response. It has also implemented policies

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<sup>72</sup> *Id.* § 361.

<sup>73</sup> *Id.*, §. 362.

<sup>74</sup> Public Health Service Act, 1944, § 363 No.42 of Congress, 1944 (USA).

<sup>75</sup> *Id.*, §. 368.

<sup>76</sup> *Id.*, §. 363.



through agency regulations and temporary rules to utilize the funding provided by Congress.<sup>77</sup> State governments have handled the situation more diversely; they are targeting their specific populace with community health policy and economic responses. Local governments have circumscribed within the framework of power delegated to them by their State governments, focusing their emergency powers on policies to protect their citizens and support their municipal economies.<sup>78</sup>

The Congress has passed several legislations like Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Preparedness and Response Supplemental Appropriations Act, these laws direct the federal agencies to use fund which is provided to implement temporary rules in response to the epidemic. Congress has enacted several public laws providing funding to help government agencies, states, localities, businesses, and individuals respond to the Coronavirus.<sup>79</sup>

The Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 provided \$8.3 billion dollars for testing, vaccine and medical supply procurement.<sup>80</sup>

The Coronavirus Aid, Relief and Economic Security Act, 2020 (the CARES Act, 2020) was a comprehensive response to support the economy, public health, state and local governments, individuals, and businesses. The CARES Act endorsed around \$2 trillion in appropriations in direct response to combat the Coronavirus epidemic. The CARES Act also authorized direct payments to the American public in varying amounts. It provided supplemental unemployment payments for those out of work due to lock-downs, quarantines, and business closures.<sup>81</sup>

The Paycheck Protection Program and Health Care Enhancement Act, 2020 provided special funding to small business administrations, also the fund was used in the testing process.<sup>82</sup>

The US Supreme Court, in the case of *Jacobson v. Massachusetts*,<sup>83</sup> established that the State has broad authority to enact their quarantine and health law, and this allowed the

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<sup>77</sup> LIBRARY OF CONGRESS, <https://www.loc.gov/law/help/covid-19-responses/federal-state-local-responses.pdf> (May. 8, 2021, 9:29 PM).

<sup>78</sup> LIBRARY OF CONGRESS, <https://www.loc.gov/law/help/covid-19-responses/federal-state-local-responses.pdf> (May. 8, 2021, 9:29 PM).

<sup>79</sup> *Id.*

<sup>80</sup> Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, No. 116 Acts of Congress, 2020 (USA).

<sup>81</sup> Coronavirus Aid, Relief and Economic Security Act, 2020 No. 116 Acts of Congress, 2020 (USA).

<sup>82</sup> Paycheck Protection Program and Health Care Enhancement Act, 2020, No. 116 Acts of Congress, 2020 (USA).

<sup>83</sup> 197 U.S. 11, 25 (1905).

Governor of Ohio to declare state emergency in 2020 in the interest of public health but later on it was withdrawn.<sup>84</sup>

On June 17 2020, the New York authorities amended their criminal procedure laws to allow witnesses to appear electronically in felony hearings.<sup>85</sup>

In August 2020, the US government passed notification concerning control the residential eviction to the greatest extent possible, and temporary financial assistance was provided to tenants and homeowners.<sup>86</sup>

The policy of the US government concerning regulating the spreading of the Coronavirus is divided into three phases.<sup>87</sup> In Phase One, all vulnerable individuals to be at home only, all individual roaming in parks, shopping areas must maximize the physical distance, encourage telework bars to be close, and minimizing the non essential travel.

In Phase Two, the rule for the vulnerable was similar, non essential travel to be a resume, schools can reopen, visit senior care facility still be prohibited, the bar can be open if the proper physical distance can be maintained, and gym remains open if physical distancing can be maintained.

In Phase Three, visits to the senior care facility are to be allowed. A large venue can operate like Movie Theater, but physical distance must be maintained, gym and bar can be operated.<sup>88</sup>

The Vaccination program began on December 14, 2020. As of May 2021, 279.4 million vaccine doses have been jabbed, or around 42% of the US populations have been vaccinated (first dose), and approximately 38% of the total populations have been vaccinated fully.<sup>89</sup>

So, apart from the laws passed by Congress, the rule relating to control on the spread of Coronavirus is similar to the UK only.

### *The legislative framework in India*

In India, the primary legislation regulating the epidemic situation is 'The Epidemic Diseases Act, 1897' and the Disaster Management Act, 2005, operating with some supplementary laws.

<sup>84</sup> OHIO. GOV, <https://perma.cc/PT8H-BQXZ> (Apr. 27, 2021, 9:29 PM).

<sup>85</sup> LIBRARY OF CONGRESS, <https://www.loc.gov/law/help/covid-19-responses/federal-state-local-responses.pdf> (May. 10, 2021, 9:29 PM).

<sup>86</sup> NATIONAL ARCHIVE, FEDERAL REGISTER, <https://perma.cc/6UC6-4D6E> (Apr. 29, 2021, 9:50 PM).

<sup>87</sup> THE WHITE HOUSE, <https://www.whitehouse.gov/openingamerica/> (Apr. 29, 2021, 9:50 PM).

<sup>88</sup> *Id.*

<sup>89</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/covidview/index.html> (May. 25, 2021, 7:45 AM).

In this Act originally, only four provisions are given. The last modification accomplished before Coronavirus under the Epidemic Diseases Act was in 1956 to continue law in the Indian States.<sup>90</sup>

When the Act was enacted, it was for States and then 'Governor General' and later on, through amendments section 2A as inserted which give 'Central Government' power to take affirmative action according to need but what it prescribes is relatively useless in contemporary time.<sup>91</sup>

The provision relating to State Government can empower it to take such measures by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as shall deem necessary to prevent such disease or the spread thereof. It may determine in what manner, and by whom any expenses incurred (including compensation, if any) shall be defrayed.

The Act also refers Indian Penal Code [hereinafter IPC, 1860] for penalizing, which is also an English law; Section 3 of this Act says that any person who disobeys any regulation or order made under this Act then he will be punished under section 188 of IPC.<sup>92</sup>

Section 188 of IPC deals with Disobedience to order duly promulgated by a public servant, where the order is promulgated by a public servant who has authority to pass that order. If anyone knowingly disobeyed that order, that person will be punished with six months imprisonment or with a fine or with both.<sup>93</sup>

The Epidemic Disease Act, 1897 does not mention any other IPC section, but there are some provisions of IPC, which are in connection with the Epidemic Disease Act, 1897.

Section 269 of IPC, i.e., Negligent act likely to spread infection of disease dangerous to life.

Whoever spread infection knowingly or has reason to believe that the infection of any disease is 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.<sup>94</sup>

Section 270 of IPC i.e., Malignant act likely to spread infection of disease dangerous to life shall be punished imprisonment of either description for a term which may extend to six months, or with fine, or with both.<sup>95</sup>

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<sup>90</sup> The Epidemic Disease Act, 1897, §2 A, No. 10, Acts of Parliament, 1897 (India).

<sup>91</sup> S. Rakesh, *The Epidemic Diseases Act of 1897: public health relevance in the current scenario*, 3 *IJME* 157, 157 (2016).

<sup>92</sup> The Epidemic Disease Act, 1897, §3, No. 10, Acts of Parliament, 1897 (India).

<sup>93</sup> The Indian Penal Code, 1860 §188, No. 45, Act of Parliament, 1860 (India).

<sup>94</sup> *Id.*, §269.

<sup>95</sup> *Id.* §270.

Section 271 of IPC i.e., Disobedience to quarantine rule, whoever knowingly disobeys any rule made and promulgated by the government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.<sup>96</sup>

The Disaster Management Act, 2005 punishes whosoever without any reasonable cause obstruct the officer discharging duty under this Act or refuses to comply with the direction of appropriate government shall be punished with the term which may extend to one year or with fine or both and if that such obstruction causes loss of lives, then shall be punished with imprisonment which may extend to two years.<sup>97</sup>

The Criminal Procedure Code, 1973, can also regulate the movement of the people. Executive Magistrate is empowered under section 144 to pass such direction which likely to prevent or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety or a disturbance of the public tranquillity, or a riot, or an affray.<sup>98</sup>

Article 19 (2) of the constitution includes 'public order and morality' as a reasonable restriction which means that appropriate government may pass an order to regulate the freedom of speech and expression where it may create chaos in the State like Fake News.<sup>99</sup>

India has many other 'additional laws' that help prevent and control an epidemic, including provisions of the Livestock Importation Act, 1898, the Indian Ports Act of 1908, Drugs and Cosmetics Act of 1940, Aircraft Rules of 1954.<sup>100</sup>

The aforementioned legislations are also working in India. Still, because of the lack of coordination among them and difference in the objective of the Acts, it becomes difficult to build harmony among the Acts and administer the epidemic.<sup>101</sup>

In 2009, the National Health Bill was introduced in parliament; that bill can be called 'Rights Based Bill.' That bill also contained the definition of the 'epidemic'; that also mentioned forming public health boards at the national and state levels for smooth implementation and effective coordination. There are provisions for community-based

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<sup>96</sup> *Id.* §271.

<sup>97</sup> The Disaster Management Act, 2005 § 51, No. 53, Acts of Parliament, 2005 (India).

<sup>98</sup> The Code of Criminal Procedure, 1973, §.144 No. 2, Acts of Parliament, 1973 (India).

<sup>99</sup> INDIA CONST. art. 19.

<sup>100</sup> M. Kakkar, S. Hazarika, S. Zodpey, K.S. Reddy *Influenza pandemic preparedness and response: a review of legal frameworks in India*, 54 *IJPH* 13, 13 (2010).

<sup>101</sup> S. Rakesh, *The Epidemic Diseases Act of 1897: public health relevance in the current scenario*, 3 *IJME* 157, 157 (2016).

monitoring and mention of grievance redressal mechanisms that would ensure transparency.<sup>102</sup> However, the bill could not get approval from parliament and lapsed with time.

If that bill had passed by parliament that law, then maybe the situation got different but only having a law is not enough, its implementation is also necessary. Further Public Health (Prevention, Control, and Management of Epidemic, Bioterrorism, and Disasters) Bill, 2017 was brought in parliament, which is still under consideration in the House to substitute the 1897 Act.<sup>103</sup>

### 3.1 Legal development took place amid Coronavirus (India)

India brought the Epidemic Act, 1897 and the National Disaster Management Act, 2005 into motion to control the spread of the virus.<sup>104</sup>

The Indian parliament had passed the Epidemic Diseases (Amendment) Act, 2020 essentially introduces provisions that criminalise and punish any attack on healthcare professionals or their property.<sup>105</sup> It defines healthcare service professionals. The Act majorly focused on the health care personnel and their property security.<sup>106</sup> As per the Act, any individual who violated the provision of the Act would attract a penalty of Rs. 50,000-Rs. 2,00,000 or a jail term of six months to seven years.<sup>107</sup> It can be said that the Act is health personnel centric, but this Act can be more comprehensive if it must have discussed the management of power, fund issues, and uniform guidelines.

In COVID 19, State Public Transport, including buses, trains, etc., was canceled; the power to do this is provided under the Epidemic Disease Act, 1897. Section 2(b) of Epidemic Disease Act, 1897 allows the inspection of persons traveling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.<sup>108</sup>

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<sup>102</sup> PRS LEGISLATIVE RESEARCH, [https://www.prsindia.org/uploads/media/Draft\\_National\\_Bill.pdf](https://www.prsindia.org/uploads/media/Draft_National_Bill.pdf) (May. 8, 2021, 12:00 PM).

<sup>103</sup> Alok Kumar Yadav, Jivesh Jha, *Role of Judiciary And Social Welfare To Combat Coronavirus Pandemic In Nepal: A Study With Special Reference To India's Epidemic Law*, *ILI Law Review (Special Issue)* (2020).

<sup>104</sup> *Id.*

<sup>105</sup> PRS LEGISLATIVE RESEARCH, [https://www.prsindia.org/sites/default/files/bill\\_files/EPIDEMIC%20DISEASES%20%28AMENDMENT%29%20ACT%2C%202020.pdf](https://www.prsindia.org/sites/default/files/bill_files/EPIDEMIC%20DISEASES%20%28AMENDMENT%29%20ACT%2C%202020.pdf) (May. 8, 2021, 12:20 PM).

<sup>106</sup> Ramya Boddupalli, Greetika Francis, *Epidemic Diseases (Amendment) Bill, 2020: A Missed Opportunity*, *ILI Law Review (Special Issue)* (2020).

<sup>107</sup> THE GAZETTE OF INDIA, <http://egazette.nic.in/WriteReadData/2020/219108.pdf> (last visited November 23, 2020).

<sup>108</sup> The Epidemic Disease Act, 1897, §2(b), No. 10, Acts of Parliament, 1897 (India).

The Government of India created a fund called 'Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM CARES Fund).<sup>109</sup> The objective of this fund is to provide financial assistance for a public health emergency or any other kind of emergency, calamity or distress, either man-made or natural, including the creation or upgradation of healthcare or pharmaceutical facilities, other necessary infrastructure, funding relevant research or any other type of support.<sup>110</sup>

Maharashtra government also promulgated a gag order to curb the fake news revolving around social media platforms.<sup>111</sup>

In response to the increase in death rates, many state governments passed a regulation for burial and cremation of dead bodies like The West Bengal Epidemic Disease, COVID 19 Regulations, 2020<sup>112</sup>, The Delhi Epidemic Diseases, COVID-19 Regulations, 2020.<sup>113</sup>

The response of the Judiciary amid the epidemic is commendable to some extent. The Supreme Court took *suo moto* cognizance about appropriate treatment of COVID 19 infected patients and handling the dead bodies in a dignified way. The court gave direction to doctors and government authorities for proper checking and treatment of patients, committees of doctors were formed, installation of CCTV in hospitals, help desk for Coronavirus patients was provided.<sup>114</sup>

In *Gulab Chandra Prajapati v. Chief Secretary, State of Jharkhand*,<sup>115</sup> a public petition was filed that sought direction from the court for safe management and disposal of dead bodies of Coronavirus infected dead bodies state government to implement the 'Dead Body Management Guidelines.'

In *Pradeep Gandhi v. State of Maharashtra*,<sup>116</sup> the petitioner sought direction from the court for Stay on burial and cremation of dead bodies near the residential areas. Still, it was rejected, and the deceased's right was upheld.

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<sup>109</sup> THE PM CARES, [https://www.pmcared.gov.in/en/web/page/about\\_us](https://www.pmcared.gov.in/en/web/page/about_us) (May. 10, 2021, 12:20 PM).

<sup>110</sup> *Id.*

<sup>111</sup> THE WIRE, <https://thewire.in/rights/mumbai-police-gag-order-section-144> (last visited November 23, 2020).

<sup>112</sup> PURBAMEDINIPUR.GOV.IN, [http://purbamedinipur.gov.in/downloads/Epidemic\\_Disease\\_Regulation\\_covid19.pdf](http://purbamedinipur.gov.in/downloads/Epidemic_Disease_Regulation_covid19.pdf) (last visited November 23, 2020).

<sup>113</sup> DELHIGOVT.NIC.IN, <http://health.delhigovt.nic.in/wps/wcm/connect/c05a8d804d883d25974cf7982ee7a5c7/NED+Act.pdf?MOD=AJPERES&lmod=-754584952&CACHEID=c05a8d804d883d25974cf7982ee7a5c7> (May. 8, 2021, 12:20 PM).

<sup>114</sup> *In re: The Proper Treatment of COVID 19 Patients and Dignified Handling of Dead Bodies In the Hospital etc.* Suo Motu Writ Petition (Civil) No.7/2020.

<sup>115</sup> 2020 SCC OnLineJhar 421.

<sup>116</sup> 2020 SCC OnLineBom 662.

### ***III. Comparative analysis of Global Epidemic laws and India***

After observation of the laws of the various lands, the difference and similarities in such particular law have to be analysed holistically:

1. *No Epidemic Definition:* There is no mention of what constitutes an epidemic. The law of epidemic in the USA, UK, and India enlisted diseases that can come under epidemic, but none of the legislations had mentioned or gave clarity on the definition of an epidemic.

2. *Delegated Legislation:* All the Acts relating to the epidemic give power to the local authorities to act according to need; this may be because the local governing bodies can handle the situation in their designated area effectively.

Under the UK epidemic law, the provision starts with '*Power of Local Government Board to make regulations,*' Approximately all the sections between (130-140) they have given rulemaking power, entry restriction/ approval power, etc., are handled under the Local governance only.

Under US law, the power to regulate the affairs relating to health emergencies goes in the hands of the Secretary of State or local authorities only; they may handle the situation in their ambit by issuing rules regarding different affairs.

Under the Indian Epidemic law, the power to handle the epidemic was initially given to the State government, but after the amendment in 1920, the Central government also got the power; presently, both can take a decision accordingly.

For instance, at the beginning of Coronavirus, some States had declared holidays around 21st March, but some States have declared holidays after 23rd March. The Central government announced Lockdown later. This difference existed because the power to handle epidemic is given in both State list in the concurrent list of the Indian Constitution under Schedule 7.<sup>117</sup>

But unfortunately, due to overlapping powers in both the governments' hands, neither of the governments is ready to take responsibility on its shoulders; consequently, only blame game is prevailing even in the second wave instead of owning responsibilities and accountability towards the public.<sup>118</sup>

3. *Penalty Provisions:* Under every Act, if the rules made by the authorities are not obeyed, then he shall be punished, and punishment may be fine or imprisonment; it differs from country to country.

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<sup>117</sup> INDIA CONST. Sch. 7.

<sup>118</sup> Prakash Mennon, *Don't just game the system, return to Kautilya's goal of happiness in Covid 2nd wave*, THE PRINT (May 25, 2021, 9:29 PM), <https://theprint.in/opinion/dont-just-game-the-system-return-to-kautilyas-goal-of-happiness-in-covid-2nd-wave/646062/>

Under the UK epidemic law, if any person disobeys the authorities' rules or regulations, he has to pay a fine of approximately 50 pounds, as mentioned in section 130.<sup>119</sup>

Under US epidemic law, if any person disregards quarantine rules and regulations or without permission of the quarantine officer in charge, a fine of not more than \$1,000 or imprisonment for not more than one year shall be punished or both.<sup>120</sup>

Under the Indian epidemic law, there is no explicit provision of punishment, but it refers to IPC for punishment provision as mentioned under section 3 of the Epidemic Act.<sup>121</sup>

The amendment of 2020 has been increased penalty between Rs. 50,000-Rs. 2,00,000 or a jail term of six months to seven years.

*4. Restriction on Movement:* The government of different jurisdictions restricted the movement of people to prevent the further spread of coronavirus.

UK parliament brought 'Coronavirus Act 2020', which deals with purposes in connection with coronavirus.<sup>122</sup> The rule of six is introduced to regulate the movement.

The UK government also brought 'The Winter Plan 2020' that restricts the regular movement of people by asking a 'reasonable reason' for coming out of houses.<sup>123</sup>

Under the US Epidemic law, section 362 deals with the restrictions to prevent the spread of disease in the US.<sup>124</sup>

Under Indian Epidemic Law, regulation for restriction rules can be made according to the situation's demand as provided in Schedule 7 of the Constitution.<sup>125</sup>

*5. Fund Assistance:* The laws concerning epidemic in the UK provide provisions relating to the fund, which is to be given to municipalities for better administration at ground level.

In US epidemic law, many provisions are dealing with the fund assistance to municipalities and giving them the power to spend money as per the need of the hour.

In Indian epidemic law, there was a fund created by the State under Disaster Management Act 2005. Still, the Indian government created an alternate fund PM

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<sup>119</sup> Public Health Act, 1875, §.130 No. 50, Act of Parliament, 1875 (England).

<sup>120</sup> Public Health Service Act, 1944, § 363 No.42 of Congress, 1944 (USA).

<sup>121</sup> The Epidemic Disease Act, 1897, §3, No. 10, Acts of Parliament, 1897 (India).

<sup>122</sup> LEGISLATION.GOV.UK, <https://www.legislation.gov.uk/ukpga/2020/7/contents/enacted> (May. 12, 2021, 9:29 PM).

<sup>123</sup> HMGOVERNMENT, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/937529/COVID-19\\_Winter\\_Plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/937529/COVID-19_Winter_Plan.pdf) (May. 12, 2021, 9:29 PM).

<sup>124</sup> Public Health Service Act, 1944, § 362 No.42 of Congress, 1944 (USA).

<sup>125</sup> INDIA CONST.



CARES Fund that provides financial assistance at the ground level, but there is no law regulating this fund.

6. *The ambit of Epidemic law:* The ambit of the UK's epidemic law covers almost all imperative provisions required to be used at the time of epidemic and contemporarily for effective work UK. Parliament had enacted the 'Coronavirus Act 2020,' which will work in harmony with Public Health Act, 1875, but still, it does not cover things like research, scholarship funds, or advancements of doctors.

The ambit of US epidemic law is very elaborative. It covers almost all aspects of epidemic and quarantine, which the UK Act is covering. In extra, it covers aspects like the investment in research, the advancement of doctors, etc.

The Indian Epidemic law differs drastically from above mentioned epidemic laws; it only deals with the distribution of powers and regulating that power.

7. *Way of Implementation:* In the UK, contemporarily, the primacy is given to the Local Authority, Local Government Board, and National Health Service (NHS) to look after the affected persons affected by the epidemic.

In the US, the primacy is given to the Secretary of the concerned State and delegated the responsibility to other personnel as per the requirement, but 'fountainhead' is secretary of the state only.

In India, the system differs from both UK and US law. In India, the responsibility is in the hand of both the Central and State governments.

The Epidemic Diseases Act, 1897 empowers State Government, more than the Central government because they are more connected to people.

## VI

### Conclusion

After analyzing the UK and the US laws of the epidemic, it can be concluded that their statutes are developmental and self-sufficient for their country.

The chief law is accompanied by many supplementary laws and policies.

The US marked a considerable transformation of the epidemic laws among all three countries; the United States of America's epidemic laws can be considered model legislation for the other countries because of its comprehensiveness and futuristic character and the delegation of the responsibilities among the states and its municipalities in better administration.

After the investigative study of various epidemics and additional laws of different jurisdictions, it can be concluded that India needs an immense change in its epidemic laws. The Indian parliament needs to reassess the epidemic issues again and is required to frame robust law.

***The basic works endorsed after reading various laws are as follows:***

1. Repealing the old Epidemic legislation and need to introduce a new law made in the light of different countries law not only US or UK but other Common law countries and International Health Regulations.
2. The 'epidemic' must be defined so that ambiguity can be avoided, but it must be 'inclusive, not exhaustive so that future situations can be included through interpretation.
3. Parliament must incorporate the 'quarantine products' clause in the Epidemic Diseases Act, 1897, so that goods and medicines like masks, sanitizer, and Remdesivir, and demand emerged in society, cannot be sold at high prices in a health emergency.
4. The vaccine's duplicacy and oxygen black marketing need to be regulated as soon as possible. It will only keep the prices of essentials medication high, so the concerned authority must take possible action against the black marketeers.
5. The legislature must pass a law regulating subjects like 'treatments,' 'care,' and 'ethical behaviour,' covering both public and private sectors. Different agencies should be set up, mainly keeping surveillance on the hospitals and other concerned agencies and submitting the report to the government.
6. The government must pass a law regulating private hospitals charging an arbitrary fee in public health emergencies.
7. The government must insert the provisions relating to dignified burial and cremation of dead bodies.
8. India needs a team of experts who can work on ground level with police authorities to quantify the danger caused by the virus in the human body. It will help the scientist and doctor's teams working on the solution get expert assistance.
9. Sometimes it's impossible to pass additional guidelines to combat this situation, so delegated legislation must be used. Local authorities can pass the rules in a situation of the epidemic or any health emergency as they deemed fit. Like when the law relating to cremation and burial was missing, the State legislature passed the law to combat this issue.
10. India needs to start a new branch of the Medical field that will focus on the epidemics and submit an anticipatory report to the government based on their research dealing with epidemic worldwide. To encourage this kind of studies the government must offer different Fellowship and Training Programs to young generations.
11. One putative issue in some areas is that the government hospital lacks services in machinery, medicine, and staff. For better and efficient treatment in all conditions (not only in epidemic), but we should also have developed hospitals with all-time doctors.

12. The doctors must be formally involved in the policy-making procedures similar to the US model 'Surgeon General' for making and regulating the policies, including quarantine and sanitization.
13. India requires proactive Parliament; a legend example of an 'active parliament' is the UK parliament; they passed the 'Coronavirus Act 2020' to handle the epidemic situation also, the US parliament passed various legislations to control the epidemic and spread of the virus. However, the Indian Parliament failed to show their active participation in this situation; instead, the judiciary worked more than Parliament for upholding the people's fundamental rights.
14. The Indian government needs to work on its motion; the Supreme Court need not act as 'guardian of Government,' guiding and directing the government every time. India is not living in a state where the judiciary is a policymaker.
15. The government must hit the 'conscious' of the people that they should follow the rules and regulations passed by the authorities. Not only must they respect that personnel who are working day and night in this dangerous situation without caring about their own lives.
16. The 'epidemic funding' must be regulated by legislative backing. The PM CARE fund has no legislative backing, but the Disaster Management Act, 2005 Fund is regulated by the law.
17. The vaccination policy and its production must be managed diligently and with foresightedness.

So the Indian Government needs to clarify the position of *a PM CARE fund*. It must be backed by law since it's a public fund, so it must not be misused and should be transparent. In comparison to these countries, India's Epidemic Diseases Act, 1897 and additional laws are rather skeletal and fail to address most issues that arise during a public health emergency. This epidemic could be an opportunity for the Indian parliament to make a comprehensive uniform code dealing with the epidemic situation. Parliament can set up a committee for making a comprehensive code on the epidemic.