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**EPIDEMIC DISEASE ACT, 1897: WHETHER SUFFICIENT TO ADDRESS THE CURRENT CHALLENGES?**

**ABSTRACT**

*The Constitution of India grants everyone the right to highest attainable standard of physical and mental health, which includes access to all medical service, sanitation, adequate food, decent housing, healthy working conditions and a clean environment through Article 21 and other associated articles. While struggling to combat the burden of communicable diseases, our health system is challenged to address chronic non-communicable diseases. The burden and spectrum of infectious diseases are enormous in India. Epidemics of communicable diseases impose a heavy economic burden on individuals, families, communities, and nation at large andto prevent such disaster,and this issue needs to be closely be looked from the structural intervention, i.e., the legal framework apart from various biological and behavioral public health interventions.*

*This article will focus on the Epidemic Disease Act, 1897 which is an ancient statute dealing with the epidemic diseases control in India. This paper will focus on the incompetency of the legislature in dealing with the communicable diseases and would try to find certain solutions to deal with the modern epidemic that is prevalent in India. The research methodology followed to prepare the present research paper is the Doctrinal Method and Descriptive Method wherein the Researcher has sourced the information from various such as various books, articles, research papers, journals and case laws.*

Keywords: Epidemic, communicable diseases, non-communicable diseases, right to health, etc.

**EPIDEMIC DISEASE ACT, 1897: WHETHER SUFFICIENT TO ADDRESS THE CURRENT CHALLENGES?**

# INTRODUCTION

India is a rich and beautiful country; truly, God’s own country, rich in natural resources and human resources and based with optimal climate. We have all the potential to become one of the best places on earth to live in. But we underestimate our potential and ignore the basic requirement for progress. One of the most important social issues neglected in our country is the health care. We neglect issues concerning health care and literally end up manufacturing diseases.

In India, over the years, diseases increased disproportionately to the population growth. With the growth of population being doubled in the last 30 years, doctors and hospitals have increased at least a hundred times. Yet the number of existing doctors and hospitals prove inadequate. The World Health Day and other days named after several diseases and organs been observed as a ritual every year, which all stresses on treatment of diseases and rehabilitation of patients. But the basic health care issues have always been ignored in India.

Diseases like Endosulfan, Leptospiorosis, and Chickenguniya although received shortly attention, but the larger casual issues underlying these problems are always overlooked. The issues involved in such diseases portray the pitfalls in the management of the basic issue of health care system.

India is witnessing epidemiological transition. In this era of non-communicable diseases of 21st century, still communicable diseases contribute 30% of such disease burden in India[[1]](#footnote-1). In this age, still hundreds of epidemics occur each year and we deliberately fail to respond to most of them.

While struggling to combat the burden of communicable diseases, our health system is challenged to address chronic non-communicable diseases. The burden and spectrum of infectious diseases are enormous in India. Epidemics of communicable diseases impose a heavy economic burden on individuals, families, communities, and nation at large. We still are clueless while handling influenza pandemics and struggle to contain them.

Our Parliament, the highest political institution in the country has always been energetic to meet the needs of the changing society. Due to rapid industrialization and urbanization, the social patterns of the people are rapidly changing. The most important part is that, with “the changing society” the law needs to be changed protecting the interests of the disadvantaged groups and the weaker sections.

Thus, to prevent such disaster, this issue needs to be closely looking from the structural intervention, *i.e.,* the legal framework apart from various biological and behavioral public health interventions. Normally, law governs the norms, human and social order which includes the human conduct in the society as well. In the absence of such laws, a country cannot even imagine its existence and therefore it is present in all the nations of the world. In our country as well, there exists a thousands of legislations at both Centre and individual state level, which includes legal mechanisms as well to support public health measures in the epidemic situation. But the major drawback, in this field is that they are not being addressed under a single legislation. There is a constitutional division of legislative responsibilities between the central government and the states. Both the Central and State government are empowered by the constitution to legislate matters n public health. The central government and state laws may also provide for the prevention of the transmission from one state to another of infectious or contagious diseases or pests affecting humans, animals, or plants[[2]](#footnote-2). There are several central laws managing the prevention of contagious diseases.

One such instance of formulating laws is the Epidemic Disease Act, 1897. This act was enacted to control communicable diseases. The word “Epidemic” means attacking or affecting many persons in a community or area[[3]](#footnote-3) or an outbreak or unusually high occurrence of a disease or illness in a population or area. When we say epidemic of a disease, it generally denotes that of affecting many persons at the same time and spreading at a rapid rate from person to person in a locality where the disease is not permanently prevalent. India has witnessed many such diseases in the recent past. And this compelled the government of India to take a step forward in enacting “The Epidemic Disease Act” in 1897. This is one of the shortest legislations India could have comprising of just four sections.

However, this Act fails to meet the needs of the present generation in the current context of surveillance and in regarding to other relevant Acts and legislations both at national and international level. This Act is not right based and lacks a complete focus on the people. So, there is a dire need for an integrated, comprehensive, well-defined and actionable legal legislation for the control of such major outbreaks in India.

This paper attempts to describe the Act, its background and historical significance that includes key elements and current status of the Act. Furthermore, it will identify its limitations and lacunae, along disease surveillance and response in the country. Finally, it sets out to examine the key legislations and the sections of these which are relevant for updating Acts or reforms in this area and for proposing recommendations.

# CONSTITUTIONAL PROVISIONS AND RIGHT TO HEALTH WITH REFERENCE TO EPIDEMIC DISEASE ACT-

India is a signatory to the International Covenant on Civil and Political Rights and the International covenant on Economic, Social and Cultural Rights. The Supreme Court held that Article 21 must be interpreted in conformity with the International Law[[4]](#footnote-4). The main source of law in our country is the Constitution, which in itself provides provision for health care of the people. The Supreme Court also cited Article 25(2)[[5]](#footnote-5) of the Universal Declaration of Human Rights and Article 7(b)[[6]](#footnote-6) of the International Covenant on Economic, Social and Cultural Rights while stating the right to health by a worker[[7]](#footnote-7).

The definition of health as given by World Health Organization is stated in its Preamble is inclusive of all aspects of human life, which is stated as “Health is a state of complete physical, mental and social wellbeing and not merely the absence of disease[[8]](#footnote-8)”.

The Constitution of India grants everyone’s right to highest attainable standard of physical and mental health which includes access to all medical service, sanitation, adequate food, decent housing, healthy working conditions and a clean environment through Article 21 and other associated articles. The Constitution of India guarantees protection of life and personal liberty to every citizen through Article 21. The Supreme Court in the light of this has stated that the right to live with human dignity, enshrined in Article 21, has been derived from the Directive Principles of State Policy and thus includes the protection of health as well[[9]](#footnote-9). Moreover in the light of *State of Punjab*v*Mohinder Singh* it has also stated that the right to health is integral to the right to life and the government has constitutional obligations to provide health facilities[[10]](#footnote-10).

The socio-economic goals[[11]](#footnote-11) to be achieved that has been mentioned in the Constitution are: to secure to all its citizens social, economic and political justice, liberty of thought, belief, faith and worship; equality of status and opportunity and to promote fraternity so as to secure the dignity of the individual and the unity and integrity of the nation. In the light of this the Supreme Court of India has held in the case of *Samantha* v *State of Andhra Pradesh*[[12]](#footnote-12), wherein it stated that “the Constitution envisions establishing an egalitarian social order rendering to every citizen, social, economic and political justice in a social and economic democracy of the Bharat Republic.” Thus Part III and IV of the Constitution have been set up to sought the goals and objective of the Indian Polity through Fundamental Rights and Directive Principles.

In the case of *Indira Sawhney* v *Union of India*[[13]](#footnote-13), the Court has expressly stated that “Equality is one of the magnificent corner-stones of Indian democracy.” Right to equality under Article 14 of the Constitution involves two concepts. The first being “Equality before law” which is a negative concept and the second being “equal protection of laws” which postulates the positive concept. The Supreme Court in the case of *Sri Srinivasa Theatre* v *Govt of Tamil Nadu*[[14]](#footnote-14) explained that the two expressions “equality before law” and “equal protection of law” that they do not necessarily mean the same thing although they have much in common between them.

The human right to health care means that hospitals, clinics, medicines, and doctors’ services must be accessible, available, and acceptable and of good quality for everyone, on an equitable basis, where and when needed.

In the case of *LIC of India* v *Consumer Education and Research Centre*[[15]](#footnote-15), the question of how equality applies in protection of health of the people was raised. In light of this, the Supreme Court stated that equality principle must be applied whenever the health facilities are provided by the Government. Article 21 has been interpreted to include right to health; it is also the fundamental right of workmen[[16]](#footnote-16).

Justice Bhagwati has observed and stated in *Francis Coralie* v *Delhi*[[17]](#footnote-17), as “*We think that right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessaries of life such as adequate nutrition, clothing, shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and comingling with fellow human beings.*”

In *Shantisar builders* v. *Narayanan KhimalalTotame*[[18]](#footnote-18) the Apex Court has observed: “the right to life under Article 21 would include the right of food, clothing, decent environment and reasonable accommodation to live in.” Hence the concept of life has been interpreted in a very expansive manner which includes the right to health as a fundamental right as well. In a historic judgment of *Consumer Education and Resource Centre* v *Union of India*[[19]](#footnote-19), the Supreme Court observed that “the right to health and medical care is a fundamental right under Article 21 of the constitution as it is essential for making the life of the workman meaningful and purposeful with dignity of person”.

Furthermore in the case of *State of Punjab and Others* v *Mohinder Singh Chawala*[[20]](#footnote-20) it has been stated “that right to health is integral to right to life and the government has a constitutional obligation to provide health facilities.” Similarly, the court has upheld the state’s obligation to maintain health services[[21]](#footnote-21).

Thus, besides upholding the Right to health as an integral part of the Right to Life under Article 21 of the Constitution, the Supreme Court and High Court through plethora of cases from time to time has established the obligation on the part of the State as well to provide medical health facilities on the other hand. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment results is in violation of his right to life guaranteed under Article 21[[22]](#footnote-22). And also the State cannot take the plea of lack of financial resources to shy away from constitutional obligation, especially in cases of major outbreaks of diseases, ex epidemics.

Since, the purview of right to health is very wider it includes all major outbreaks such as big epidemics under it and the peoples’ right to get benefits and the governments’ duty to prevent such outbreaks. India has witnessed many epidemics in the recent past due to which the Government of India has designed the “Epidemic Disease Act”. But this short Act with just proves to be insufficient to prevent such huge outbreaks and in one way due to the such inefficiency it curbs the people right to health and the right to live in a healthy and proper environment which our own very Constitution grants it to all citizens.

# INTENTION OF THE LEGISLATURE BEHIND THE INTRODUCTION OF EPIDEMIC DISEASE ACT-

The Epidemic Disease Act was passed and enacted in 1897 with objective of preventing the spread of “dangerous epidemic diseases[[23]](#footnote-23)”. The background of evolvement of such a piece of legislation is to tackle the situation of the epidemic of bubonic plague that broke out in the then state of Bombay. The then Governor General of the Colonial India had conferred some special powers upon the authorities for the implementation of the necessary measures for the control of epidemics. Among the powers that were conferred by the British Raj on the local authorities includes the search for suspected plague cases in homes and among passengers. The affected persons were segregated followed by disinfections, evacuation and demolition of infected places. The assembly of crowds’ public meetings and festivals were banned and pilgrimages suspended. This alleged humiliation of and violence against women led to concerns among the citizens, and riots started and were reported in some areas.

However, in many places, military powers were used to ensure the proper implementation of the preventive measures[[24]](#footnote-24). In the light of this Historian David Arnold called the Act as “one of the most draconian pieces of sanitary legislation ever adopted in colonial India[[25]](#footnote-25)” whereas Myron Echenberg reported in his book that “the potential for abuse was enormous[[26]](#footnote-26)”. The Act has its historical significance. When the Act was enacted, the law was in conflict with the primary objective of health reform during the period of the Raj, which aims to secure the well-being of the Britons overseas.

However, the execution of the Act remained more or less dormant after Independence and none of the measures taken under the Act corresponds to the unpopular measures that were being taken by the British Rah when the law was enacted.

The connotation “dangerous epidemic disease” is not expressly provided in the Act. This Act is silent that whether an epidemic is “dangerous” depending on the magnitude, severity of the problem and the age of population it has affected or its potential to spread internationally[[27]](#footnote-27). The area of the meaning of “dangerously epidemic disease” definition must be looked into so as to prevent the misuse of the Act and to make it more transparent and accountable.

* THE EPIDEMIC DISEASE ACT FROM A RIGHTS PERSPECTIVE-

There is no such provision in this act which takes into consideration people’s rights and interests. Where there is no right there is no remedy. The Constitution has guaranteed a number of Fundamental Rights in Part III and has also provided a remedy to enforce these rights[[28]](#footnote-28). The basic theory of self-involvement is about considering other people’s needs, desires, values, social circumstances and lifestyle and joining together to develop appropriate solutions.

But, however this Epidemic disease Act works as regulation and the major limitation is that it lacks specific public health focus. It points out the power of the government, but vehemently fails to discuss the rights of the citizens. The Act does not take into consideration the ethical human rights principles that come into play during the response to an epidemic. The ethical aspect of any national epidemic law must be equivalent to the equivalent access to healthcare facilities. This Act fails to point out the duties of government in administering the proper steps in controlling epidemics. Moreover, it fails to point out the clear executive instructions; rather it has become a guidance document.

The Act states that“the state may empower any person to take some measures.[[29]](#footnote-29)” Although in today’s scenario we have a better structured public health system to deliver the primary health care services, but still we lack in delivering services in cases of outbreak of epidemic diseases which comes under the purview of primary health care. There may be different surveillance programme which may include Integrated Disease Surveillance Programme as well, that empowers the District Chief Medical Officer, primary health centre medical officer and the workforce for the control and prevention of such outbreaks. Then the word “any” in the said act does not make any sense in the current scenario. It must be specifically mentioned that “who” can do such acts and “what” are the course of the action that needs to be taken in such cases of outbreaks must be specifically mentioned. It may also consider individual autonomy, liberty and privacy, which needs to be protected even during strict enforcement of laws. Otherwise the Act must provide in details the situations under which and the proper authority under which such autonomy, liberty and privacy may be curtailed of the people. Moreover, the ethics of public health action taken in response of the outbreak must also be considered, in lieu of the obligations of healthcare workers during an outbreak and the obligations of society towards them in return. Apart from these measures, the obligations of states and those of intergovernmental organizations must also be taken into account.

# THE EPIDEMIC DISEASE ACT, 1897- SCOPE AND INTERPRETATION

The intention of the legislature while enacting the Act was to prevent the spread of dangerous diseases and control the epidemics. It enabled the State government to determine the compensation and other expenses incurred during the spread of such diseases. It confers the power to the Central and State government to deal with such a situation that may have an adverse effect on the health of the public.

The Act provides power to exercise for the control and to prevent any epidemic or spread of epidemic in the States or Country. The states may authorise any of its officers or agency to take such measures if the state feel that the public at large is threaten with an outbreak of any dangerous epidemic. Person, who is inspecting, is empowered to determine about the process and authority to take responsibility of all expenses incurred in compensation, traveling, temporary accommodation, segregation of infected person, etc.[[30]](#footnote-30) The provisions of the Act states:

Section 2 - To take special measures and prescribe regulations as to dangerous epidemic diseases

(a) When at any time the State Government is satisfied that the State is threatened with, an outbreak of any dangerous epidemic disease, the State Government, if it thinks that the ordinary provisions of the law for the time being in force are in sufficient for the purpose, may take, or require or empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

(b) The inspection of persons travelling by railway, and the segregation, in hospital, temporary accommodation, of persons suspected by the inspecting officer of being infected with any such disease.

Section 2A - Power of Central Government

When the Central Government is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease and the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread , the Central Government may take measures and prescribe regulations for the inspection of any ship or vessel leaving or arriving at any port in the territories to which this Act extends and for such detention thereof, or of any person intending to sail therein, or arriving thereby, as may be necessary.

This Section confers power on the Central Government to take appropriate measures and provide for guidelines, in case the existing law fails to meet the demands of the society during any such outbreaks.

If we see the above section and try to interpret it, the major loophole that will attract our attention is the ‘dangerous epidemic disease’. No definition of epidemic disease has been given in the act. Neither any conclusive or exhaustive list of dangerous epidemic disease has been given nor has any magnitude been dealt to know the ambit of “dangerous epidemic disease” which is in itself is debateable. It seems that the both sections are working as a mere guidelines for the Central as well as State Government and putting no obligation on them to abide by it. In addition, the use of words “empower any person to take” seems to be insufficient in itself. “Any person” can have widened meaning, in the case of epidemic disease, which affects the health of public at large, it is very necessary that the power given to the person must be competent to do so. There must have been certain guidelines directing the government while empowering any person to take measures in such situation. Moreover, for better it would have been limited to medical practitioners.

Also both the sections *i.e.,* section 2 and 2A deals with the inspection of person travelling by railways and ships and vessels respectively. Where the world has come so, the travel by air has become so frequent and general; the act fails to mention any such change. It would be on the discretion of the government, or we can say on the common sense of the government to inspect the person travelling by the air subject to out of the purview of the act.

Section 3 - Penalty

This section is the penalty provision in case of not abiding by the regulation or orders and thus reads as-

Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.(45 of 1860).

Section 4 - Protection to persons acting under Act

No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

There have been no specific penalty provision mentioned under this act specifically. The Act relies on the Section 188 of the IPC for the punishment.Under Section 188 of the IPC, if disobedience to a legal order causes danger to human life, health or safety, the accused shall be punished with imprisonment for a term that may extend to six months or with a fine up to Rs.1,000, or with both, which might not be sufficient in every situation.

It was a hastily drafted Bill, barely a page long, but ‘extending to the whole of British India’ and coming into force immediately. It was referred to a Select Committee (of four British and two Indian members) and was brought up for discussion in the next session on February 4. Surprisingly, it was passed as an Act the very same day. Though the Indian members of the council noted that it was loaded with vague terminology and potential for abuse of power, the council passed it almost unaltered.[[31]](#footnote-31)

The Epidemic Diseases Act, 1897 brought into force for the purpose of preventing the spread of epidemic diseases. Implicit in the Epidemic Diseases Act, 1897 is the assumption that in the case of infectious diseases, the rights, including the right to privacy, of infected individuals must give way to the overriding interest of protecting public health.[[32]](#footnote-32) Because of the nature of the Act, the principles of access and correction, choice and consent, and notice do not apply to this Act.[[33]](#footnote-33)

However, the major limitations of the Bill that hinders the effectiveness and proper functioning of the Bill can be pointed as-

• Accountability

• Openness

• Access and Correction

• Choice and Consent

• Notice

• Penalty/Offenses/Liability/ Remedy

• Quality/Verification

•SecurityDisclosure

• Purpose Limitation

• Collection Limitation

# LATER DEVELOPMENTS AND REPORTS ON THE EPDEMIC DISEASES

In May 1999, the Commission on Review of Administrative Laws, under the Chairmanship of P.C. Jain, recommended repeal of 166 Central Acts, including the EDA. The Commission asked the Law Ministry to examine the provisions of the Act and decide on its utility. A committee under the Chairmanship of the Director of the National Institute of Communicable Diseases, New Delhi, recommended to the Law Ministry that a comprehensive piece of legislation was necessary for effective handling of public health emergencies in future.The Committee has deliberated on the repeal of this Act and feels that it needs to be re-enacted in view of today's socio-economic context than repealing it straight away as recommended by the P.C. Jab Commission.[[34]](#footnote-34)

It was felt that the EDA was very old and considerable changes had taken place in the field of public health since its enactment as well as in Centre-State relations. The epidemiological concepts used in the prevention and control of epidemic diseases had become backdated. Newer diseases and infections such as HIV/AIDS and SARS (Severe Acute Respiratory Syndrome) had emerged as major public health problems. Moreover, the threat of bio-terrorism and the impact of disasters (which includes both natural as well as man-made) on human health were also considered major challenges. The Former Chairman of Law Commission Justice A.R. Lakshmananstated that, “The Epidemic Diseases Act, 1897, is inadequate to deal with pandemics like H1N1 influenza. It was enacted during the British Raj and requires complete overhauling and refurbishing to deal with situations like the one that has arisen.”[[35]](#footnote-35)

The rapid rise of population within a country and between countries, the control of any kind of epidemic disease becomes difficult unless effective measures are adopted. The urge of enacting a new law and to replace the EDAwas felt for the need of developing a proper administrative strategy to tackle health emergencies of serious magnitudes.Thus,in pursuance of this a draft Bill entitled “*Public Health Emergencies Bill, 2005*” was placed before the Union Cabinet in September 2005, but the Cabinet note was withdrawn as it was considered necessary to seek the views of State governments and the Ministry of Law on the draft Bill.

Finally, the Bill was modified after incorporating the views of the State governments, and was entitled **“**Public Health (Prevention, Control and Management of Epidemics, Bio-terrorism and Disasters) Bill, 2017”**.** The salient features of this Bill can be pointed out as:

* PUBLIC HEALTH (PREVENTION, CONTROL AND MANAGEMENT OF EPIDEMICS, BIO-TERRORISM AND DISASTERS) BILL, 2017

1. This draft bill aims to define the basic terminology of “Epidemic” under section 2 and has broaden its purview which has been missing in the act of 1897 as-

(m) “Epidemic” means the occurrence in a community or region of cases of an illness, specific health related behavior, or other health related events clearly in excess of normal expectancy;

(n) “Epidemic prone disease” means a disease as listed in the First Schedule of this Act as may be notified by Central government from time to time;

2. The local authorities will have the power to direct or prohibit certain activities and issue temporary regulations by public notice to prevent outbreaks of any epidemic-prone disease and to curb acts of bio-terrorism that may have disastrous consequences on human health. The draft Bill defines bio-terrorism as intentional use of biological agents to cause disease or death of human beings or any animal or plant through dissemination of microorganisms or toxins by any medium or any means.

3. It empowered the Central Government to give directions to State governments or local authorities regarding the implementation of the Act.

4. Penal provisions for violation of the provisions of the Act, rules, notice or order was included and an imprisonment for a term was also given which shall not be less than two months and extend up to six months or fine not less than Rs.50,000 and may extend to Rs.2 lakh or with both. These provisions appear to be very harsh, as when compared with Section 188 of the IPC [Disobedience to order duly promulgated by public servant], which the EDA relies on for its enforcement.

Thus, this Bill has extensively widen the scope of the term “Epidemic” and adopt certain measures which can be carried on through the Governments (both Central and State) for implementation of safety measures during the outbreak of any epidemics. And the inclusion of penalty provision was a better step for the enhancement of implementation of the provisions of the Bill.

* THE NATIONAL HEALTH BILL, 2009

In furtherance of the Bill of 2005 came the National Health Bill, 2009 which tries for better and effective implementation of measures and tries to promote a quality health care services to the public at large. The provisions of the said Bill are-

Section 5 - Obligations to provide access to quality health care services: The Governments shall also carry out the following as their obligations of comparable priority towards right to health and well being of all:

a) Ensure all the rights related to health care as laid down under this Act;

b) Take effective measures to prevent, treat and control epidemic and endemic diseases;

c) Lay down specific standards and norms for safety and quality assurance of all aspects of health care including health care services and processes, treatment protocols, infrastructure, equipment, drugs, health care providers, within the Government, private and other non-government sectors;

It lays down the obligations on the part of the Government to provide quality health care services and also laid down the process by which such objective could be ensured.

Section 2(g) again widen the definition of the term “epidemic” which means “occurrence of cases of disease in excess of what is usually expected for a given period of time”, and includes any reference to “disease outbreak” herein unless specifically stated otherwise;

Section 20 - Functions: The State Public Health Board shall carry out the following functions:

Planning and implementing State health programmes for identifying, preventing and addressing conditions of public health importance including epidemics and outbreaks through surveillance; epidemiological tracking, programme evaluation, and monitoring; testing and screening programs; treatment; abatement of hazardous and injurious substances and activities; administrative inspections; or other methods.

Therefore, the National Health Bill 2009 was another step ahead than that of the Bill of 2005 where the lacunae of the Bill had been tried to be fulfilled. In addition to the Bill of 2005, it laid down extensively the functions of the Central and State Governments as well as the State Public Health Board, which they must carry out for the better, and quality health care public services.

* NATIONAL HEALTH POLICY 2015 DRAFT

The National Health Programmes that address communicable diseases (down to every sub-centre and PHC) represent less than 6 % of all morbidities and about 25% of all communicable diseases. A comprehensive approach to communicable diseases needs districts to respond to the communicable disease priorities of their locality- and this can only happen in a context where the integrated disease surveillance programme is used to generate a comprehensive understanding of all communicable diseases in the respective areas, as well as respond to localized outbreaks as and when they occur and before they become generalized epidemics. The policy response is to build sufficient public health capacity down to the district level- and this consists of both a network of well-equipped laboratories backed by tertiary care centres and the public health capacity to collect, analyse and respond to the disease outbreaks using the state of the art public health knowledge.[[36]](#footnote-36)

# RECOMMENDATIONS AND CONCLUSION

In the present situation, there is a need to establish bodies and systems to monitor clinical and non-clinical effectiveness of the services offered in the public and private facilities. In India concerns about how to improve health care quality have been frequently raised by the general public and a wide variety of stakeholders, including government, professional associations, private providers and agencies financing health care. There also have been attempts to establish systems and process that would ensure quality of care by the health providers.[[37]](#footnote-37)

There is need to build better reporting and compensation policy for the epidemic situations. The health technology assessment must be there with proper vaccine security. The introduction of cost effective medications and vaccination will also contribute in the control of any disaster result of any disease, which is epidemic nature. Availability of required resources must be there and in adequate amount. The institutional capacity must be build up to provide easy access to these facilities.

In addition, the proposed draft bills must be passed by the legislature as soon as possible as the Act of 1897 has proved to be failure in controlling the epidemic situation of the country where new diseases have been introduced and the situation is becoming vulnerable. There is need of fresh legislation dealing with the current situation of the country. Health of the people contribute in development of the society and economy of the country. It must not be ignored by the state at any cost; otherwise, it would lead to adversity.

# REFERENCES

* Arnold, David. *Colonizing the body: State medicine and epidemic disease in nineteenth-century India*. Univ of California Press, 1993.
* Balarajan, Yarlini, SelvarajSelvaraj, and S. V. Subramanian. "Health care and equity in India." *The Lancet* 377.9764 (2011): 505-515.
* Banerjee, DebendraNath. *Some aspects of the Indian Constitution*. Prakash Bhavan, 1970.
* Gostin, Lawrence O., and Devi Sridhar. "Global health and the law." *New England Journal of Medicine* 370.18 (2014): 1732-1740.
* Iliyas, Hina. "Right to Health from Constitutional Perspective." (2015).
* Negi, Swati, et al. "Implementation of epidemic disease act: An experience from a North Indian jurisdiction." *Indian journal of public health* 61.2 (2017): 148-148.
* Patro, Binod K., Jaya Prasad Tripathy, and RashmiKashyap. "Epidemic diseases act 1897, India: Whether sufficient to address the current challenges?." *Journal of Mahatma Gandhi Institute of Medical Sciences* 18.2 (2013): 109.
* Rakesh, P. S. "The Epidemic Diseases Act of 1897: public health relevance in the current scenario." *Indian journal of medical ethics* 1.3 (2016).
* Reddy, K. Srinath, et al. "Towards achievement of universal health care in India by 2020: a call to action." *The Lancet*377.9767 (2011): 760-768.
* Reddy, K. Srinath, et al. "Towards achievement of universal health care in India by 2020: a call to action." *The Lancet*377.9767 (2011): 760-768.
* Report on the Working Group on Clinical Establishments, Professional Services Regulation and Accreditation of Health Care Infrastructure For the 11th Five-Year Plan, Government of India Planning Commission.
* World Health Organization. *Implementation of international health regulatation, 2005*. No. SEA-CD-209. WHO Regional Office for South-East Asia, 2010.
* World Health Organization. *International health regulations (2005)*. World Health Organization, 2008.

1. Department of Community Medicine, Post Graduate Institute of Medical Education and Research School of Public Health, Chandigarh, India. [↑](#footnote-ref-1)
2. Id. List III, Entry 29. [↑](#footnote-ref-2)
3. <http://dictionary.reference.com/browse/epidemic> (Last Accessesed: 15th October, 2018) [↑](#footnote-ref-3)
4. People’s Union for Civil Liberties v. Union of India (1997) 1 SCC 301. [↑](#footnote-ref-4)
5. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection. [↑](#footnote-ref-5)
6. Safe and healthy working conditions. [↑](#footnote-ref-6)
7. ESC Ltd v. Subhash Chandra Bose (1992) 1 SCC 441 at 462. [↑](#footnote-ref-7)
8. Preamble to the Constitution of the World Health Organization as adopted by the International HealthConference, New York, 19–22 June 1946; signed on 22 July 1947 by the representatives of 61 States (OfficialRecords of the World Health Organization, no. 2, p. 100); and entered into force on 7 April 1948. [↑](#footnote-ref-8)
9. BandhuaMuktiMorcha v Union of India (AIR 1984 SC 802). [↑](#footnote-ref-9)
10. Chawla (1997) 2 SCC 83. [↑](#footnote-ref-10)
11. People’s Union for Civil Liberties v Union of India (1997) 1 SCC 301. [↑](#footnote-ref-11)
12. AIR 1997 SC at 3326. [↑](#footnote-ref-12)
13. AIR 1993 SC 477. [↑](#footnote-ref-13)
14. AIR 1992 SC at 1004. [↑](#footnote-ref-14)
15. AIR 1995 SC 1811. [↑](#footnote-ref-15)
16. Kirloskar Brothers Ltd v ESI Corporation AIR 1996 SC 3261. [↑](#footnote-ref-16)
17. 1981 AIR 746. [↑](#footnote-ref-17)
18. AIR 1990 SC 630. [↑](#footnote-ref-18)
19. 1995 AIR 922. [↑](#footnote-ref-19)
20. Civil Writ Petition 15942 of 199. [↑](#footnote-ref-20)
21. State of Punjab v Ram LubhayaBagga. (1998) 4 SCC 117. [↑](#footnote-ref-21)
22. PaschimBangaKhetMazdoorSamity v State of West Bengal 1996 SCC (4) 37. [↑](#footnote-ref-22)
23. The Epidemic Disease Act of 1897. Act No 3 of 1897 [cited 2016 Feb 14]. Available from: <http://mohfw.nic.in/showfile.php?lid=1835> (Last Accessed: 15th October 2018). [↑](#footnote-ref-23)
24. Murray, Clinton K. "Infectious disease complications of combat-related injuries." Critical care medicine 36.7: S358-S364(2008). [↑](#footnote-ref-24)
25. Rakesh, P. S. "The Epidemic Diseases Act of 1897: Public Health Relevance in the Current Scenario", Indian journal of medical ethics 1.3 (2016). [↑](#footnote-ref-25)
26. V Venkatasen “Efforts to replace the Epidemic Diseases Act, 1897” Volume 26 - Issue 18: INDIA'S NATIONAL MAGAZINE (Aug. 29-Sep. 11, 2009). [↑](#footnote-ref-26)
27. Rakesh, P. S. supra 25. [↑](#footnote-ref-27)
28. World Health Organization, International health regulations (2005). [↑](#footnote-ref-28)
29. Purohit, Vidula, et al. "Public health policy and experience of the 2009 H1N1 influenza pandemic in Pune, India." International journal of health policy and management 7.2- 154(2018). [↑](#footnote-ref-29)
30. Compendiumof Laws on Disaster Management, National Disaster Management Authority Government of India, Compiled by National Disaster Management Authority in association with West Bengal National University of Juridical Sciences, Available at:<https://ndma.gov.in/images/pdf/COMPENDIUM-OF-LAWS-ON-DISASTER-MANAGEMENT.pdf>January 2015 (Last Accessed: 13th October, 2018). [↑](#footnote-ref-30)
31. KumbharKiran, “Demonetisation and the Plague: What Modi Can Learn from the Epidemic Diseases Act?”<https://thewire.in/health/plague-demonetisation-epidemic-1897>24thNovember, 2016 (Last Accessed: 15th October 2018). [↑](#footnote-ref-31)
32. UNDP “Law, Ethics and HIV/AIDS in South Asia. A Study of the Legal and Social Environment of the Epidemic in Bangladesh, India, Nepal and Sri Lanka” (2004). [↑](#footnote-ref-32)
33. <https://cis-india.org/internet-governance/health-privacy.pdf> (Last Accessed 20th October, 2018). [↑](#footnote-ref-33)
34. Report of the Committee to Identify the Central Acts which are not Relevant or Longer Needed or Require Repeal/Re-Enactment in the Present Socio-Economic Context, Volume 1, Prime Minister’s Office, Available at: <http://www.pmindia.gov.in/wp-content/uploads/2015/01/Extracts-of-the-Committee-of-the-Report-Vol.I-.pdf>(5th November, 2014) (Last Accessed: 15th October 2018). [↑](#footnote-ref-34)
35. SaheliMitra, “In Sickness and Health” The Telegraph (26th August 2009) http:://www.telegraphindia.com/1090826/jsp/opinion/story/ 11409711.jsp (Last Accessed 15th October 2018). [↑](#footnote-ref-35)
36. National Health Policy 2015 Draft, Ministry of Health & Family Welfare <https://www.nhp.gov.in/sites/default/files/pdf/draft_national_health_policy_2015.pdf>. (December, 2014) Last Accessed: 13th October, 2018). [↑](#footnote-ref-36)
37. Report on the Working Group on Clinical Establishments, Professional Services Regulation and Accreditation of Health Care Infrastructure For the 11th Five-Year Plan, Government of India Planning Commission Available at: <http://planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_hclinic.pdf> (Last Accessed: 24th October, 2018). [↑](#footnote-ref-37)