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Indemnifying lives: Covid-19 Ex-Gratia and Legislations

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The ongoing covid-19 pandemic has proved to be an unprecedented challenge to the public health sector. It has highlighted the need to address and assess the various legislative provisions pertaining to such health emergencies. This paper examines the various Acts invoked to tackle the unsought outbreak, which the world is currently facing. In addition to these regulations, the covid ex-gratia compensation and its legalities have also been dealt with. This paper gives an integrative analysis of how various laws have been enforced in India to counter the ongoing mishap and the various methods and strategies resorted by the Government to compensate for the lives lost during the covid-19 outbreak. The paper also highlights the critical State of the frontline workers who have faced the brunt of this pandemic first-hand and how various legislations and government policies have failed to cater to their needs adequately. The need for administrative and monetary support by the Central Government has been strongly reiterated in this paper. The pandemic has undoubtedly shaken the already fragile state of human life, ranging from economy to health. It has provided the much-needed attention to address the plausible loopholes and challenges that lie ahead. The need of the hour is that these hurdles and challenges are recognized to successfully tackle any other unprecedented emergency. Improvising and analysing various legislations pertaining to such outbreaks is a way forward. This paper further aims to elaborate upon the existing flaws and difficulties that the legislations face and seeks to establish and suggest the adequate changes required to overcome these hurdles.

Keywords: *ex-gratia, legislations, compensation, healthcare.*

INTRODUCTION

The paper examines various legislative provisions that the Indian Government had invoked during this pandemic, including the Epidemics disease act and the Disaster management act while also highlighting the substantial ex-gratia compensation agreed upon by the Government after the SC verdict quoting the DMA provisions. This pandemic highlights the need to deal with plausible future health emergencies in a more prepared and systematic way. Legal frameworks play a pivotal role during crisis situations as they help to catalyse the Government's response; therefore, it is crucial to critically analyse and review these provisions so as to bridge the gap between the obsolete colonial-era legislation and the current requirements of various laws while also examining their utility and relevance to regulate such deadly virus outbreaks. A solid legal foundation to tackle such a crisis is necessary, and therefore it is pertinent to take cognizance of the challenges that come with these provisions. These Covid-19-specific regulations announced by the governments need an urgent overhaul to prevent its arbitrary use and for the State to act in the population's interest. The fundamental flaws of these acts should be recognised, and devising a new holistic law from a public health perspective is the need of the hour.

THE EPIDEMICS DISEASE ACT, 1897

What is EDA?

The Epidemic Diseases Act (EDA), 1897, is legislation enacted during the British colonial era, predominantly to tackle mass epidemics. In 1897, Queen Victoria directed her government to take "stringent measures" in order to tackle the deadly bubonic plague outbreak in Bombay state. The key objective of this legislation was stated as "better prevention of the spread of dangerous epidemic disease." One of India's primary solutions to fight the Covid-19 pandemic was to promulgate the EDA act, which once was used to imprison freedom fighters. This 125-year-old colonial legislation is one of the shortest legislation in India, having only four sections. The EDA primarily gives special dominion to the state governments to issue legal interventions in order to address such instances of national or regional epidemic crisis.

Section 2 of the Act empowers the State Government, and if it is satisfied that any part of the State is threatened with an outbreak of any dangerous epidemic disease, it can invoke the provisions of the Act for the time being. Section 3 deals with “*the punishment under Section 188 of the Indian Penal Code (IPC) for any disobedience of the Act, which can potentially cause danger to human life, health, or safety.*”¹Punishment under the EDA ranges up to six months and fines up to Rs 1,000. “*Section 4 ensures legal protection to public servants for performing their duty under the Act.*”²The State may empower any person to undertake such measures by public notice and prescribe such temporary regulations as it shall deem necessary, and it may also determine the manner with which and how the expenses are to be incurred (including compensation, if any).

Recent Developments

The epidemics act was vital in containing diseases and has also been promulgated in the past to deal with various outbreaks of Cholera, Spanish Flu, swine flu, smallpox, etc. The law was last invoked in the year 2018 to impede the spread of cholera in a village in Gujarat. Karnataka was the first Indian State to implement the legislation in early March, following which many Indian states such as Bihar, Maharashtra, Uttar Pradesh, and Delhi invoked the EDA as a measure to fight against the covid-19 pandemic. Many states and authorizing government officials took shelter under the notified regulations to isolate and quarantine people, close schools, malls, gyms. The methods used by the State legitimized by-laws, impinged on the rights of an individual, which were first formulated for the interest of the population at large. Such unjust intrusions could be manifested by several incidents that happened after the Act was invoked. “*In early April, an FIR was slapped against the family of a Bengaluru technician, who had contracted COVID-19, for “hiding information,” and they were charge-sheeted under the Epidemics Act.*”³

Reports also say that people have resorted to committing suicide, driven by the fear of the disease, harsh quarantine measures, and the mental agony following it. Such incidents fail to

¹ Epidemic Diseases Act 1897

² *Ibid*

³ Editorial, ‘Law as Weapon’ (*Indian Express* 21 May 2020)

<<https://indianexpress.com/article/opinion/editorials/edpidemic-diseases-act-coronavirus-covid-19-india-lockdown-6419880/>>accessed 11 November 2021

protect the citizens' right and their public health and rightfully question the legitimacy of such laws. In furtherance of this, the Act was amended in April 2020 by way of an ordinance. It was passed by both houses of Parliament and was approved by the President. The Epidemic Diseases (Amendment) Ordinance, 2020, was promulgated on April 22, 2020, amending the Epidemic Diseases Act, 1897. The ordinance was formulated to generate zero tolerance towards violence against healthcare workers in their living premises as well as their workplaces. The ordinance defines a healthcare worker as someone who is most likely to be exposed to the epidemic disease during their employment. These include service personnel like "*public and clinical healthcare service providers such as doctors, nurses, paramedical workers, and community health workers; any other persons empowered under the act to take measures to prevent the outbreak of the disease or spread thereof; and any persons declared as such by the state government, by notification in the official gazette.*"⁴

An 'act of violence' covers harassment, harm, injury, hurt, danger to life, obstruction during duty, loss or damage to the property or documents of the healthcare personnel.⁵ Further, The Act elaborates upon the powers of the central Government to regulate inspection of any ship or vessel leaving or arriving at any port, the detention of any person intending to travel from the dock during an outbreak. No person can commit or abet the commission of an act of violence or cause damage or loss to any property during an epidemic. "*Contravention of this provision is punishable with imprisonment between three months and five years, and a fine between Rs 50,000 and two lakh rupees.*"⁶ If a person causes grievous harm, the offender will be punishable with imprisonment between six months and seven years and a fine between one lakh rupees and five lakh rupees. These offences under this ordinance are cognizable and non-bailable. The court will assume that the individual is guilty of the offense, except if the opposite is proved, and the convicts will also be liable to pay compensation which will be determined by the court.

⁴ Shankhyaneel Sarkar, 'Rajya Sabha passes Epidemic Diseases Amendment Bill, 2020 to protect healthcare workers' (*Hindustan Times*, 19 September 2020) <<https://www.hindustantimes.com/india-news/rajya-sabha-passes-epidemic-diseases-amendment-bill-2020-to-protect-healthcare-workers/story-mwYPMzODJiG69YljdIwGyO.html>>accessed 15 November 2021

⁵ Epidemics Disease (Amendment) Ordinance 2020

⁶ *Ibid*

Impact on the frontline workers

The COVID-19 pandemic resulted in a myriad of deaths and has consequentially affected millions more who are still to survive. Nevertheless, caring for the survivors and mourning the victims could be prioritized only after taking cognizance of the efforts that the frontline workers put in so as to ensure the effective functioning of the State during a global pandemic. The commitment and professionalism of the frontline workers can be manifested by their clinical overtime duties and a huge workload. Many frontline workers like nurses, health care professionals, hospital support staff, the emergency rescue personnel, law enforcement officers, etc. have worked fingers to bones in providing adequate treatment and care for covid-19 patients, but sadly, are ill-equipped and poorly prepared for such health emergencies while risking their own lives to save the lives of others. The recent Epidemic Diseases Act (Amendment) Ordinance, 2020, aims at protecting such healthcare personnel engaged in containing the viral outbreak.

Challenges like pay delays, lack of an effective public health network, fragile health care system, and disordered government policies might impede the smooth functioning of the public healthcare system. Systematic management of the pandemic depends upon the resilience of hospitals to cater to the needs of the public and the preparedness of the various healthcare institutions. Although, preparing for such outbreaks could prove to be a significant challenge. In order to create an environment where nurses can work optimally and competently, essential medical resources such as the availability of face masks, beds, personal protective equipment (PPE), gloves, and a powered air-purifying respirator should be supplied coupled with the essential knowledge needed to tackle such tasks. The aforementioned measures will facilitate a viable environment for nurses and other healthcare professionals to work efficiently and effectively. It is then the responsibility of the government and diligent leaders to recognize and identify these needs and provide the required resources accordingly.

Potential challenges and misuse of EDA

In India, the EDA acts as a primary law to control a mass epidemic. Still, EDA in its present form is not competent to tackle health emergencies like COVID-19, and certain challenges might impede the smooth functioning of invoking such legislation. The Act stands reticent over certain technicalities like the ambiguous operational mechanism and management of epidemics; additionally, it is also silent on quarantine and isolation measures. The concept of the vaccine was nascent in 1897, but since then, vaccination has gradually acquired global importance. Nevertheless, the epidemics act lacks the legal framework addressing the availability and distribution of vaccines and is also quiet on the implementation of a large vaccination drive; therefore, it is of high importance that vaccination is incorporated under this Act.

At several places, the public servants authorized to work under this Act could be seen asserting power by taking shelter under Clause 4 of the Epidemics Act, which immunizes the actions of such officials from any possible "legal proceedings" emanating from their duty, since they are considered to be exercised under "good faith." Unfortunately, this legal provision, drafted by the colonial State in 1897 to govern the country during large-scale breakouts, has been misused lately, and such arbitrary, erratic, and rash use of law during the fight against the COVID-19 pandemic would pose a significant challenge to the current debacle that our country is facing. Moreover, such unjust exploitation of the Act has negatively impacted the public at large, predominantly patients, mass media professionals, various party leaders and has been used for the larger benefit of the influential people.

Additionally, the Act fails to address the ambiguity pertaining to the definition of the term "epidemic," which deems to be the most alarming hindrance in the easy promulgation of the Act. The dubiety regarding the definition of epidemic provides the Government with the free license to misuse certain special powers vested in them by this Act since it fails to impose any obligations to invoke the Act for a reasonable time. It largely relies on general disobedience statutes, which mandates either six-month imprisonment or a thousand rupees fine; "*this*

minimum sentencing may hardly prove as an effective deterrence during a pandemic and is hardly a befitting punishment for disobedience that may cost lives.”⁷

Prior to the COVID-19 pandemic, some state governments had their own public health acts or had amended the EDA to include specific provisions at the state level. The epidemics act is often treated as optional legislation rather than a mandate. Therefore, it is not comprehensive and has been left to the discretion of the state governments to devise their own public health policies. This lack of uniformity between the different state governments and the central Government makes it further difficult to effectively and efficiently invoke legislative provisions pertaining to such viral outbreaks.

Way Ahead

The unjustified weaponizing of the Act used to infringe the rights of an individual demonstrates the gaping holes which are needed to be addressed urgently. *“There is a need for an integrated, comprehensive, actionable, and relevant legal provision for the control of outbreaks in India.”⁸* Many Indian states have notified COVID-19 regulations under this law intending to protect the health of the citizens, but exerting excessive power and the lack of transparency has negatively impacted the trust between people and the State. Unmitigated and unchecked powers envisaged under this law resulted in forceful detention of suspects, unhygienic quarantine facilities, control over essential services, banning of fairs & pilgrimages, etc. David Arnold describes the law as "one of the most draconian pieces of sanitary legislation ever adopted in colonial India."

The above challenges highlight the need to devise comprehensive law-keeping, a public health-oriented approach, and avoid any façade regarding the current needs of the country. There is a need to overhaul this legislation, and accordingly, an amendment is essential, if not completely repealing the Act. Some modifications in the procedural structure can help

⁷ Aman Saraf, 'A Critical Analysis of India's Epidemic Diseases Act' (*Jurist*, 23 November 2020)

<<https://www.jurist.org/commentary/2020/11/aman-saraf-india-epidemic/>> accessed 10 November 2021

⁸ Kiran Kumar Gowd, Donthagani Veerababu, Veeraiahgari Revanth Reddy 'COVID-19 and the legislative response in India: The need for a comprehensive health care law' (2021) 21(4) *Journal of Public Affairs*

<<https://onlinelibrary.wiley.com/doi/full/10.1002/pa.2669>> accessed 10 November 2021

appropriate the loopholes, which would ensure a modern legal framework to tackle a pandemic instead of relying upon colonial-era laws. The disproportionate use of force by the states could be invigilated by the court, which would allow people to voice their concerns regarding such excessive use of power. Increasing accountability on the part of the Government, regular checks on the use of state power, state monitoring, private sector inclusion, effective micro-level management, enhancing the legitimacy of such legislations, etc. can serve as long term solutions in ensuring a firm health policy and to steer clear of public disaffection and resentment.

THE DISASTER MANAGEMENT ACT, 2005

What is DMA?

In 2005, the Parliament enacted the Disaster Management Act, after it was passed by both the houses and was assented by the President. After the 2004 tsunami, The Act was sanctioned on 26th December 2005 to tackle such unforeseen disasters. The Disaster management act (DMA) provides the necessary guidelines related to a disaster, on which the EDA remains silent. The primary purpose of DMA is to manage disasters, provide aid to the people affected by such disasters, and regulate mitigation strategies, capacity-building, and more. The DMA applies to the whole of India and shall be invoked by the central Government via notification in the Official Gazette. The Act consists of 11 chapters and 79 sections, wherein the definition of a "disaster" is defined under Section 2 (d) of the Disaster Management Act. After the onset of the covid-19 pandemic, *the Central Government declared the outbreak as a "Notified Disaster" as a "critical medical condition or pandemic situation."*⁹

The Act seeks to establish the National Disaster Management Authority (NDMA), the State Disaster Management Authority (SDMA), and the District Disaster Management Authority (DDMA), which formulate various guidelines, regulations, and policies to ensure a prompt and effective response to a disaster. NDMA mainly deals with various biological disasters and

⁹ Malavika Rajkumar, 'Coronavirus: A quick guide to the laws the Indian government can invoke' (*Scroll*, 24 March 2020) <<https://scroll.in/article/957029/coronavirus-a-quick-guide-to-the-laws-the-indian-government-can-invoke-to-fight-the-pandemic>> accessed 12 November 2021

health emergencies, headed by Prime Minister, which acts as the central coordinating body to formulate policies for disaster management. The Act also appoints the Ministry of Home Affairs as the nodal ministry to supervise the effective management of disasters in the country. The Act also empowers the Central Government to Constitute a National Executive Committee (NEC) to provide necessary aid to the NDMA. The Home secretary is the ex officio chairperson of the NEC, which is responsible for laying down the appropriate plans to tackle disasters and "to ensure that it is reviewed and updated annually. It can also authorize the use of various funds for emergency responses, relief, and rehabilitation".¹⁰ To effectively manage such disasters and provide timely relief to the victims, the Act also contains provisions regarding the creation of necessary funds like the National Disaster Response Fund, the State Disaster Response Fund, and the District Disaster Response Fund.

Application of the Act during the covid-19 pandemic

The 21 days nationwide lockdown, declared on 25th March 2020 by the central Government, was legitimized by the promulgation of the Disaster Management Act, which was further extended until May 31, 2020, to contain the deadly virus. To prevent loss of human lives and save victims' livelihoods, invoking the DMA was necessary to generate a proportionate and immediate response. In January, the union government further invoked its powers under the Disaster Management Act to effectively contain COVID-19 at hospitals. *For instance, a sudden spike in covid cases in the State of Jammu & Kashmir invoked the NDMA to shut all public transport in Ramban district as a precautionary measure against Covid-19.*¹¹ Under the DMA, declaring the covid-19 pandemic as a disaster, authorized the states to use funds from the State Disaster Response Fund, which catalyzed the efforts taken by the State in order to tackle the outbreak.

The State Disaster Response Fund is put to use for various purposes like establishing quarantine facilities for the suspects, ensuring an adequate supply of personal protective equipment, masks, gloves, and thermal scanners for the healthcare workers, making necessary arrangements for the hospital authorities covering their food, stay and medical care.

¹⁰ Disaster Management Act 2005

¹¹ 'Covid-19' <<https://ramban.gov.in/office-orders/>> accessed 18 November 2021

Additionally, the funds from the SDRF are also used to cover the costs of sample collection, keeping track of the infected persons, providing ex-gratia relief to the victims, and the vaccination drive. Nevertheless, the Ministry of Home Affairs has notified *“that the cost incurred from relief funds should not exceed 25% of the state disaster relief fund’s allocation for the year and expenditure on equipment for laboratories and equipment should not exceed 10% of the total allocation.”*¹²

Need for a holistic law

Aid and assistance provided by the State are crucial to ensure rapid recovery from the pandemic. Still, such legislation invoked to mitigate hardships fails to cater to the needs of the citizens. The Act rightfully invites scrutiny, highlighting the failure to fulfill the intended goals. Such a lackadaisical approach by the State in implementing prominent legislation would further cost many precious lives. One of the significant challenges faced by the DMA is the ambiguity regarding the definition of disaster and whether the ongoing 'pandemic' can be dealt with under the purview of 'disaster.' Interpreting such health emergencies under "grave concerns" fail to address the current situation effectively. Such technicalities associated with an emergency are not dealt with by the DMA, which exposes the weakness in India's relief and response mechanism. Further, the DMA could also be seen misused by certain authorities as per their discretion and also to suppress and criminalize dissent. For instance, *“at least four FIRs have been filed against journalists in Himachal Pradesh for highlighting the condition of stranded laborers in the pandemic. The FIRs allege that these reports are “fake” and “sensational” news; the cases are being investigated.”*¹³

Section 188 of the Indian Penal code, which deals with disobedience towards the public servant, has also been wrongfully invoked many times by the government authorities. In addition, the Act has been criticized for *neglecting the local communities, local representatives, non-*

¹² Malavika Rajkumar, 'Coronavirus: A quick guide to the laws the Indian government can invoke' (*Scroll*, 24 March 2020) <<https://scroll.in/article/957029/coronavirus-a-quick-guide-to-the-laws-the-indian-government-can-invoke-to-fight-the-pandemic>> accessed 12 November 2021

¹³ Gagandeep Singh Dhillon, '14 FIRs against five reporters in Himachal: Complaints claim 'fake news'; Disaster Management Act invoked' (*Indian Express*, 16 May 2020) <<https://indianexpress.com/article/india/14-firs-five-reporters-himachal-fake-news-disaster-management-act-6412057/>> accessed 16 November 2021

governmental organizations (NGOs), and civic groups for advocating a hierarchical and bureaucratic approach rather, giving the central, state, and district authorities sweeping powers.¹⁴ The discrepancies in the legal framework pertaining to disaster management highlight the need for an urgent overhaul. Invoking such legislations has indeed assisted in dealing with public health emergencies and is also admirable, but once the pandemic subsides, the legislative authority should take cognizance of the challenges associated with such laws and should resort swiftly to reviewing them. The aim should be to make India capable of creating a holistic and comprehensive disaster management framework to tackle any future public health crisis effectively.

EX-GRATIA COMPENSATION: AN OVERVIEW

About ex-gratia

The National Disaster Management Authority (NDMA) issued guidelines for ex gratia to Covid victims after the apex court directed the Central Government in June entitling to the kins of Covid victims an ex-gratia amount under the provisions of Disaster Management Act 2005. The apex court had then granted Centre six weeks to settle the amount of ex gratia and extended the deadline multiple times. After initially asserting that such payments were beyond the Government's fiscal affordability and that the pandemic was a present global event, the Home Ministry then declared that the issue was of the mode in which funds were to be used. Justices Bhushan and Shah left it to the NDMA to determine what would be a reasonable ex gratia amount. It said the NDMA would determine the amount "*taking into consideration requirement/availability of the fund under the NDRE/SDRF for other relief and the priorities determined by the national authority/Union government and the fund required for other minimum standards of relief and fund required for the prevention, preparedness, mitigation and recovery, and other reliefs to carry out the obligation under DMA, 2005.*"¹⁵

¹⁴ Disaster Management Act 2005

¹⁵ Dhananjay Mahapatra, 'Supreme Court asks NDMA to fix ex gratia for Covid victims in 6 weeks' (*Times Of India*, 1 July 2021) <<https://timesofindia.indiatimes.com/india/sc-asks-ndma-to-fix-ex-gratia-for-covid-victims-in-6-weeks/articleshow/84004150.cms>> accessed 09 November 2021

The affidavit submitted by the Central Government in the apex court said that all claims of COVID-19 related deaths must be settled within 30 days of documents submission. It also noted that the amount would be provided through the Aadhaar-linked direct benefit transfer procedures. In response to the affidavit filed earlier, the union government approved ₹50,000 as compensation for the family of people who lost their life to Covid. The compensation mentioned above will also be paid for future Covid-related deaths, and the cause of death will mandatorily be certified as Covid-19 under the health ministry guidelines.

Fiscal federalism

The Union government, through an affidavit, has informed the Supreme Court that States will pay an ex-gratia amount of ₹50,000. This relief amount proposed by the National Disaster Management Authority would be paid from the State Disaster Response Fund, which is a specific facility to deal with notified disasters, including COVID-19. The Union government contributes 75% of SDRF allocation for general category states and Union Territories and 90% for individual category states and UTs such as the North-East states, Uttarakhand, Himachal Pradesh, and Jammu & Kashmir. The notified guidelines stated that States have already been incurring massive expenditure costs from SDRF for dealing with numerous aspects of COVID-19 like its prevention, management and response. The Centre announced several preventive measures from the national budget like vaccination drive and welfare and support schemes for those affected like orphaned children and the PM Garib Kalyan Yojana package.

It is essential to recognize that states have been at the forefront of the pandemic fight, facing severe funding crises because of declining revenues. Fiscal federalism advocates and acknowledges the importance of balance between the State and the Centre. It also deals with how states and the Centre should work together to fund such compensation when there are already so many existing calls on the public purse. In addition to the weak fiscal condition, states will also have to take cognizance of the common virus mortality numbers and the indisputable undercounting of lives lost in the two phases of the pandemic. The primary task for the States is to ensure that the process is tranquil, accurate, and empathetic.

Logic and morality

*“Ex gratia for Covid victim kin raises many questions, fiscally as well as ethically”*¹⁶. This amount can be seen as a quantitative relief to the victims. However, modalities of the payment process need to be given as much attention as the morality behind them. Unless this happens, the perks of such a policy will fail to help the intended beneficiaries. The issue of resolving cases where a medical certificate is not acknowledging Covid as the cause of death will be more challenging. A few such disputes are already under the realm of litigation, with families seeking judicial relief because doctors refuse proper certification. Unfortunately, poorer citizens were often the victims of this process. Therefore, it is hard to argue that the payment of ex-gratia is the ideal way ahead.

With India’s official Covid death toll inching close to 4.5 lakh, the amount of money needed to fulfill the ex-gratia obligations is colossal. Whether the ex-gratia amount should have been limited to poorer citizens, just like welfare benefits, a Rs 50,000 payout for a daily wager’s family may be significant but not for a senior corporate executive’s family. The social and economic divide between the citizens has to be taken into consideration while resolving some of these challenges. The tremendous impact of the pandemic cannot be meaningfully addressed with a token sum, and the substantial financial implications couldn't be ignored. However, it nevertheless provides immediate succor to the families that have lost breadwinners and productive members.

Challenges to Ex-gratia compensation

The relief and recompense that the Government has proposed is a welcome step, although with substantial challenges. Numerous challenges that might hinder the undertaking of such a mammoth task include incorrect death counts, the unpredictable timeline of the pandemic, and other legal and executive issues, making it difficult to formulate and execute a comprehensive policy with such an information deficit. Furthermore, considering the lack of

¹⁶ Editorial, ‘Compensating death: Ex gratia for Covid victim kin raises’ (*Times Of India*, 23 September 2021) <<https://timesofindia.indiatimes.com/blogs/toi-editorials/compensating-death-ex-gratia-for-covid-victim-kin-raises-many-thorny-questions-fiscally-and-ethically/>> accessed 09 November 2021

strong oversight, the administrative department in charge of certification of Covid-19 related deaths will tend to perpetuate fake death certificates leading to corruption and therefore making it challenging to identify and recognize the genuine beneficiaries of the ex-gratia compensation.

ROLE OF GOVERNMENT OF INDIA

The paper advocates and suggests that the central government must take charge of the fiscal burden for the ex-gratia payment and avoid any further dereliction of duty while acknowledging that the states already have a lot on their plate. The groundless argument about the availability of enough resources by the Centre government has got no substantial standing while pursuing big-budget and needless redevelopment projects such as the Central Vista project. The Government should invest funds in the healthcare system and infrastructure, catalyse the economic recovery of the particularly vulnerable communities, and enhance social protection rather than giving one-time compensation payments or notified ex gratia sought by the petitioners.

The NDMA reminded us that the pandemic has not abated and that the total number of deaths is still on the rise. While Covid is an unprecedented disaster, other natural disasters that occur more frequently could not be ignored. The poor health infrastructure and low public health expenditure compounded the disastrous impact of the second wave. Moreover, there is the uncertainty about upcoming variants of the virus and likely future waves. Therefore, adequate funds must be available under SDRF to provide an effective and prompt response to other disasters while considering "financial prudence" as the appropriate way ahead. The Centre must start using the tax money in a much better and more resourceful way while also reviewing its tax policies so as to compensate those whose pandemics hit the most. The SC order gives a ray of hope for the public to expect the Government to take it as an incentive for improving the public health system. The central Government can tackle some of the challenges as mentioned earlier by implementing the following:

- Government can increase its share in SDRFs.

- Government can pay directly through the consolidated fund of India.
- Government can consider the recommendations of the 15th Finance Commission that suggested an insurance route for compensating disaster costs.
- Device and implement sustainable long-term policies.
- The universal public health system.

THE WAY FORWARD

The devastating effect of the pandemic on human lives, coupled with the brunt of the second wave, has left us thinking the little that the Government could do on their behalf to alleviate some of the ongoing hardships of the citizens. The ex-gratia compensation is indeed a welcome and certainly a much-needed step in the right direction. However, it is with its share of challenges and hurdles. Some of these plausible loopholes could be appropriated with correct measures like effective and efficient implementation of this mammoth task. Additionally, the realization on the part of the central Government to take cognizance of the fiscal responsibility associated with the ex-gratia compensation is crucial. In addition to the existing crunch on the public purse, ex-gratia compensation will also affect the country's finances, so it is pertinent to formulate policies that would not affect the economy and help the intended beneficiaries instead.

Taking cognizance of the constraints mentioned above, it is difficult to ascertain the total monetary load emanating from the ex-gratia assistance, thus making it harder to predict the total sum needed to meet the compensation demands. Therefore, confining solutions merely to ex-gratia compensation would be narrow. The pandemic has resulted in families losing their sole breadwinner and orphaned children who need support. The Government has taken a positive step by accepting the compensation demands for cases where people killed themselves due to mental agony. Nevertheless, these ground realities highlight the need to formulate more efficient and transparent policies and to consider the potential hurdles associated with the ex-gratia compensation. A creative and innovative approach coupled with an ear to the ground is needed if effective mechanisms are devised.

CONCLUSION

In conclusion, the paper appreciates the Government's efforts for its proactive response towards various covid-19 relief measures but criticizes the lethargy and reluctance on the part of the central Government while also highlighting the administrative challenges that await the state governments. In order to steer clear of another needless center-state stand-off, optimum and efficient decisions by the concerned government authorities should be taken. The Government of India should take up the fiscal responsibility to provide ex gratia assistance to the relatives of those who lost their lives because of covid-19, including those who succumbed to the virus involved in relief operations and preparedness activities. The paper advocates the need to update certain colonial laws as it does not provide the necessary provisions to deal with the modern needs of the country. The Disaster Management Act, 2005, Section 188 of the Indian Penal Code, and the Epidemics disease Act have time and again been used for the benefit of the influential people, which pose a more significant challenge to the country and serves as a major deterrent to citizens' right, which is why it is crucial to make the necessary amends to such legislations. A critical analysis is essential to control the spread of such outbreaks and prepare for other unprecedented diseases. Therefore, it is vital that the Union government welcomes and acknowledges every possible judicial scrutiny required to effectively invoke these legislations and proactively manage public health emergencies, like the covid-19 pandemic.