

Bill No. 26 of 2023

THE EPIDEMIC DISEASES (AMENDMENT)
BILL, 2023

By

DR. NISHIKANT DUBEY, M.P.

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BILL

further to amend the Epidemic Diseases Act, 1897.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Epidemic Diseases (Amendment) Act, 2023.

Short title
and
commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1A.	<p>2. In section 1A of the Epidemic Diseases Act, 1897 (hereinafter referred to as the principal Act),—</p> <p>(i) after sub-section (a), the following sub-section shall be inserted, namely:—</p> <p>(aa) “epidemic” means the occurrence in a community or region of cases of a dangerous illness, specific health-related behaviour, or human disease that is caused by an infectious agent or, any genetically engineered organism or a biological toxin that poses a risk of significant harm to public health, immediate or gradual spread to regions beyond the affected community—national or international, or other health-related events clearly in excess of normal expectancy.</p> <p>(ii) after sub-section (b) the following sub-section shall be inserted namely:—</p> <p>(bb) “patient” means any person who contracts any dangerous epidemic disease as determined by scientific testing or a medical diagnosis.</p>	3 of 1897.
Insertion of new sections 2C, 2D, 2E, 2F and 2G.	<p>3. After section 2B of the principal Act, the following shall be inserted, namely:—</p> <p>“2C. The Central Government shall ensure supply of essential drugs and therapeutics to citizens during the epidemic through public health facilities as well as through outreach measures, whenever required, with priority to lower-income sections and those covered by Government healthcare schemes for free care.</p>	
Supply of essential drugs and therapeutics.		20
Responsibilities of the Government while taking measures during the epidemic.	<p>2D. The Central Government and the State Governments shall, ensure that—</p> <p>(i) during the epidemic, measures taken to limit the rights of an individual are such as are strictly necessary to resolve the crisis, and are time-bound, proportionate, and non-discriminatory; and</p> <p>(ii) guidelines for surveillance to address the pressing social need are adopted in accordance with the law and are proportionate and the limitations on the right to privacy are least intensive to achieve the desired result.</p>	25 30
Rights of citizens during the epidemic.	<p>“2E. Every, citizen, during the epidemic, shall have the following rights, but not limited to—</p> <p>(i) right to equal treatment regardless of race, color, sex, language, religion, birth or other status;</p> <p>(ii) right to free flow of information with only reasonable restrictions on freedom of expression;</p> <p>(iii) right to receive an independent medical assessment from a medical practitioner of his choice;</p> <p>(iv) right to emergency medical care in any Government or private hospital without compromise on quality or safety and without having to pay full or an advance fee to the hospital;</p>	35 40

(v) right to have a written and transparent account of the costs incurred for the treatment;

(vi) right to be compensated for loss, if any, caused by any isolation and medical treatment; and

5 (vii) right to know information on the situation of the outbreak of the disease, the prevention and control thereof and measures to cope therewith.

10 2F. Each citizen shall actively cooperate with the agencies of the Central and the State Governments that perform activities for the prevention and control of the epidemic, such as treatment and isolation measures.

Responsibility
of citizens.

 2G. (1) The Central and the State Government shall provide health services to prison inmates during the epidemic at the same standard as are provided to communities outside of prison.

Health
facilities to
prison inmates
during the
epidemic.

15 (2) In prisons, medical personnel shall, in emergency situations, make an independent assessment of each patient's condition and shall refer suitable cases to specialized treatment in or outside the prison facility."

STATEMENT OF OBJECTS AND REASONS

The advent of the Corona virus exposed lacunas in existing legislation to effectively tackle public health emergencies in India. Currently, it does not have a single consolidated law to deal with public health emergencies. Two major laws, the epidemic Diseases Act, 1897 and the Disaster Management Act, 2005 were invoked to deal with COVID-19 preparedness and response. However, the centurial old Epidemic Diseases Act, 1897 lacks comprehensive guidelines for governance and responsible authorities, accountability, and a rights-based approach. Further, the Disaster Management Act is more suited to deal with disasters rather than epidemics.

Even the recent amendment in the Epidemic Diseases Act, 1897 in 2020 only listed punitive actions for offences against the healthcare service personnel, but included no rights of the individuals. The definition clause in the Act defines various offences but excludes the most essential terms of “epidemic” and “patient”. The Act in the current form lays down no mechanism for the dissemination of drugs, availability of medical facilities or quarantine period. While providing itself powers to take special measures and prescribe regulations during an epidemic, the State establishes no responsibilities to undertake for itself.

During the Corona virus pandemic, the country witnessed a surge in deaths owing to the lack of emergency medical healthcare. It intensified the pressure across a wide range of fundamental rights, a key pillar of the rule of law. The Supreme Court of India in the case of *Bandhua Mukti Morcha vs. Union of India & Ors.* (1984) interpreted the right to health under Article 21 of the Constitution of India which guarantees the right to life.

The significance of clear and consistent public health emergency law cannot be denied. However, the current legal ecosystem falls short in ensuring a modern legal framework to ensure stability in an epidemic.

Hence this Bill.

NEW DELHI;
January 16, 2023.

NISHIKANT DUBEY

FINANCIAL MEMORANDUM

Clause 3 of the Bill *inter alia* provides that the Central Government shall ensure supply of essential drugs and therapeutics to citizens during the epidemic. It also provides that the Central Government shall ensure for every citizen, emergency medical care in any Government or private hospital without having to pay full or an advanced fee to the hospital and citizen who is isolated and medically treated due to an infectious disease shall be compensated for any damage caused by such isolation and medical treatment.

The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. However, it is not possible to access the actual financial expenditure likely to be incurred at this stage.

ANNEXURE

EXTRACT FROM THE EPIDEMIC DISEASES ACT, 1897

(3 OF 1897)

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Definitions.

1A. In this, unless the context otherwise requires,—

(a) “act of violence” includes any of the following acts committed by any person against a healthcare service personnel serving during an epidemic, which causes or may cause—

(i) harassment impacting the living or working conditions of such healthcare service personnel and preventing him from discharging his duties;

(ii) harm, injury, hurt, intimidation or danger to the life of such healthcare service personnel, either within the premises of a clinical establishment or otherwise;

(iii) obstruction or hindrance to such healthcare service personnel in the discharge of his duties, either within the premises of a clinical establishment or otherwise; or

(iv) loss or damage to any property or documents in the custody of, or in relation to, such healthcare service personnel;

(b) “healthcare service personnel” means a person who while carrying out his duties in relation to epidemic related responsibilities, may come in direct contact with affected patients and thereby is at the risk of being impacted by such disease, and includes—

(i) any public and clinical healthcare provider such as doctor, nurse, paramedical worker and community health worker;

(ii) any other person empowered under the Act to take measures to prevent the outbreak of the disease or spread thereof; and

(iii) any person declared as such by the State Government, by notification in the Official Gazette;

(c) “property” includes—

(i) a clinical establishment as defined in the Clinical Establishments (Registration and Regulation) Act, 2010;

23 of 2010.

(ii) any facility identified for quarantine and isolation of patients during an epidemic;

(iii) a mobile medical unit; and

(iv) any other property in which a healthcare service personnel has direct interest in relating to the epidemic;

(d) the words and expressions used herein and not defined, but defined in the Indian Ports Act, 1908 the Aircraft Act, 1934 or the Land Ports Authority of India Act, 2010, as the case may be, shall have the same meaning as assigned to them in the Act.

15 of 1908.
22 of 1934.
31 of 2010.

2. (1) When at any time the State Government is satisfied that the State or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the State Government, if it thinks that the ordinary provisions of the law for the time being in force are insufficient 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.

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

(2) In particular and without prejudice to the generality of the foregoing provisions, the State Government may take measures and prescribe regulations for the inspection of persons travelling 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.

2A. 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 that the ordinary provisions of the law for the time being in force are insufficient to prevent the outbreak of such disease or the spread thereof, the Central Government may take such measures, as it deems fit and prescribe regulations for the inspection of any bus or train or goods vehicle or ship or vessel or aircraft leaving or arriving at any land port or aerodrome, as the case may be, in the territories to which this Act extends and for such detention thereof, or of any person intending to travel therein, or arriving thereby, as may be necessary.

Powers of Central Government.

2B. No person shall indulge in any act of violence against a healthcare service personnel or cause any damage or loss to any property during an epidemic.

Prohibition of violence against healthcare service personnel and damage to property.

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further to amend the Epidemic Diseases Act, 1897.

(Dr. Nishikant Dubey, M.P.)