Lest We Forget COVID-19

Learnings from District Administrators in India

Shreyashi Ray
Kim D'Souza

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About the Authors

Shreyashi Ray and Kim D'Souza are Research Fellows at the Vidhi Centre for Legal Policy.

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I. Introduction

A. Background: The Third Tier, Participatory Governance, and Public Health Emergencies (PHEs)

This project attempts to understand the legal and governance challenges that district administrators faced during the COVID-19 pandemic with a view to informing more modern approaches to public health emergency management and legislation. From the outset of the COVID-19 pandemic in India, district administrators were given the foremost role in the pandemic response at the sub-regional level, by applying Section 69 of the Disaster Management Act, 2005 ('**DMA**').[1] Central and state government orders tasked district administrators with managing the pandemic within their respective jurisdictions, utilising the powers bestowed on them, directly, by the DMA, and through state-level regulations issued under the Epidemic Diseases Act, 1897. However, existing legal and governance frameworks for public health emergency management, appear to have fallen short in the face of a major pandemic.[2]

Meanwhile, district administrators are reported to have performed various roles, including coordination with state agencies to develop informed pandemic-response policies.[3] Initial successes in containing the spread of the disease, were attributed to district administrators, working in tandem with local governments.[4] Alongside the government's response, and especially during the earlier stages of the pandemic, it has also been noted that the efforts of civil society and local communities were crucial in mitigating some of the dire effects of the pandemic as well as of the stringent response measures.[5] Further, reports indicated that communities played an important role in facilitating the

[1] Order No. F.NO. 40-2/2020-DM-I (A) dated 11 March 2020 issued by the Joint Secretary to the Government of India on the letterhead of the Ministry of Home Affairs, Government of India, to the Secretary, Ministry of Health and Family Welfare available at: < https://www.mohfw.gov.in/pdf/disastermanagmentact.pdf> accessed: 27 October 2022; Order No. 40-3/2020-DM-I(A) dated 17 May 2020, issued by the Ministry of Home Affairs, Government of India https://prsindia.org/files/covid19/notifications/IND_MHA_Lockdown_Extension_upto_May31_17052020.pdf accessed: 27 October 2022

[2] Dhvani Mehta, Akshat Agarwal, Kim D'Souza, Shreya Shrivastava, Yogini Oke, 'What Should a Public Health Emergency Law for India Look Like?' (2021) <https://vidhilegalpolicy.in/research/what-should-a-public-health-emergency-law-for-india-look-like/> accessed 03 June 2022

[3] Anwesha Dutta, Harry W. Fischer, 'The local governance of Covid-19: Disease prevention and social security in rural India.' [2021] 138 World Development <https://www.sciencedirect.com/science/article/pii/S0305750X20303612> accessed: 11 July 2022; 'Responding to Covid-19- Learnings from Kerala' (World Health Organization- *Feature Stories*, 02 July 2020) <https://www.who.int/india/news/feature-stories/detail/responding-to-covid-19---learnings-from-kerala> accessed: 14 September 2022

[4] Anuj and Shashwata Sahu, 'Healthcare System and Role of Local Self-Government During Covid-19 Pandemic in India.' [2021] 5(1), IJLMH <https://www.ijlmh.com/paper/healthcare-system-and-role-of-local-self-government-during-covid-19-pandemic-in-india/> accessed: 11 July 2022; Nilanjana Sen and Abhik Palit, 'India's Local Governments Tackling Covid-19' (*Pursuit*, University of Melbourne, 12 May 2020) <https://pursuit.unimelb.edu.au/articles/india-s-local-governments-tackling-covid-19> accessed: 11 July 2022;

[5] Cicely Marston, Alicia Renedo, Sam Miles, 'Community participation is crucial in a pandemic' [2020] 395(10238) Lancet <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7198202/> accessed: 13 September 2022; Priya Tiwari, Ujjayinee Aich, Sayan Das 'India must put community participation at the centre of its Covid-19 control strategy.' (Scroll.in, 12 July 2020) <https://scroll.in/article/966867/india-must-put-community-participation-at-the-centre-of-its-covid-19-control-strategy> accessed 16 September 2022; Pritha Venkatachalam, Donald Yeh, Niloufer Memon, 'Opinion: Philanthropy's distinct role in India's COVID-19 response' (*Devex*, 16 July 2020)

pandemic response at the local-level,[6] and also that local governments, in some cases, reached out to NGOs for support with engaging communities at the grassroots level.[7]

Public health is one of the functions listed for devolution to municipalities under the Twelfth Schedule to the Constitution, pursuant to the 74th Constitutional Amendment.[8] A 2021 study of local governance and COVID-19 in India, points to empowering and investing in local authorities, as having significant potential to facilitate public service delivery and other state functions, including, specifically, in coordinating responses to extreme climate events and other disasters.[9] In the Indian context, third tier government is usually the first point of contact for most citizens.[10]

The Second Administrative Reforms Commission's 15th Report[11] points out that until the aforesaid 74th Constitutional Amendment, the district level administration mainly performed the duties outlined for it under various enactments, along with administrative tasks assigned to it by the State government. They go on to note that after independence, the "single greatest accretion to the responsibilities of the district administrator" came about through the expansion of rural development programmes, which increased the number of activities, institutions, and departments involved in rural development, and consequently the "coordinating and synthesizing role" of the district administrator in development works became more significant. In light of the mandate of decentralisation, subsidiarity, and representation (i.e., participation) carved out by the 73rd and 74th Constitution Amendment Acts,[12] the Commission's report stresses the need to re-examine the role of the district administration vis-à-vis that of local elected government, so as to bring the mandate of subsidiarity to fruition, while leveraging the rich tradition of administrative expertise and credibility embodied by the district administration to the greatest common benefit.

Role of the Law in Public Health Emergencies (PHE/s)

Vidhi's March 2021 White Paper titled 'What Should a Public Health Emergency Law for India Look Like?'[13] examines the role of the law in PHE preparedness and response, and public health at large. The

https://www.devex.com/news/opinion-philanthropy-s-distinct-role-in-india-s-covid-19-response-97702 accessed 16th September 2022

[6] Sheoshekhar Shukla, Jitendra Bhargava, Pawan Tiwari, 'How Madhya Pradesh's community participation model for Covid-19 containment brought successes and lessons for the future.' (ET Government.com, 29 September 2021) <https://government.economictimes.indiatimes.com/news/healthcare/how-madhya-pradeshs-community-participation-model-for-covid-19-containment-brought-successes-and-lessons-for-the-future/86612851> accessed 16 September 2022

[7] Nivedita Das Gupta, 'The Role of NGO's Ensuring Committment to Social Responsibility Amidst the Covid-19 Pandemic. <https://timesofindia.indiatimes.com/blogs/voices/the-role-of-ngos-ensuring-commitment-to-social-responsibility-amidst-the-covid-19-pandemic/> accessed 16 September 2022.

[8] 74th Constitution Amendment Act [1992], Article 234W.

[9] Anwesha Dutta, Harry W. Fischer, 'The local governance of Covid-19: Disease prevention and social security in rural India.' [2021] 138 105234 World Development <https://www.sciencedirect.com/science/article/pii/S0305750X20303612> accessed: 11 July 2022; <https://theprint.in/opinion/lesson-from-the-pandemic-empowering-local-bodies-is-a-priority-to-improve-public-health/694275/> accessed: 11 July 2022

[10] 'Local governments must have a key role to fight Covid-19' (Financial Express, June 1, 2020) <https://www.financialexpress.com/lifestyle/health/local-governments-must-have-a-key-role-to-fight-covid-19/1977869/> accessed: 11 July 2022

[11] Second Administrative Reforms Commission, 'Fifteenth Report, State and District Administration' (2009) 59 https://darpg.gov.in/sites/default/files/sdadmin15.pdf accessed: 27 October 2022

[12] The Constitution (Seventy-third Amendment) Act, 1992; The Constitution (Seventy-fourth Amendment) Act, 1992

[13] Dhvani Mehta, Akshat Agarwal, Kim D'Souza, Shreya Shrivastava, Yogini Oke, 'What Should a Public Health Emergency Law for India Look Like?' (2021) <https://vidhilegalpolicy.in/research/what-should-a-public-health-emergency-law-for-india-look-like/> accessed 03 June 2022

White Paper points out that the "…existing Indian legal framework on PHEs needs to be re-evaluated to address its various shortcomings and incorporate the necessary aspects of a modern PHE legislation in a manner appropriate to the Indian context."

It goes on to identify various issues that should be considered as part of this exercise, including the following:

- the need for legislation that:
    a. caters to the specific needs of each state;
    b. outlines the division of responsibilities between the different tiers of government;
    c. institutes adequate inter- and intra-governmental coordination mechanisms;

- the capacity of the existing administrative infrastructure to handle PHE preparedness and response activities as envisioned under a modern PHE framework;

- the need to ensure the complementarity of the law vis-à-vis administrative protocols, and the effectiveness of both of these, in practice.

Objectives

This project (and report) attempts a further inquiry into the above questions, from the perspective of local governance as administered by district-level administrators in the context of the COVID-19 pandemic, as well as their observations on the functioning of PHE laws, on the ground.

Our aim is to learn from recent experiences with the practical functioning of existing laws and governance structures, in order to enable reform that reflects the needs and realities of those at the forefront of PHE preparedness and response efforts.

In particular, it is hoped that the findings of this study will help:

- *incorporate a realistic third-tier perspective in the drafting of effective PHE legislation*

- *identify optimal routes to facilitating participatory governance in PHE management*

- *highlight the areas of PHE preparedness and response that are better met through administrative or informal routes, than legislative provisions.*

B. Research methodology

The study utilised qualitative methods, through personal interviews, supplemented by, and analysed through the lens of, literature reviews and learnings from related projects conducted by the organisation.

Overview of methods

Qualitative surveys by way of semi-structured personal interviews were conducted with individual administrators at the district-level, across the country. Subjects were selected based on accessibility and willingness to participate in the study, through a mixture of purposive and convenience sampling methods.

The researchers began with the intention of interviewing administrators in 2 districts (the most and least populated respectively) in each geographical region of the country. However, due to limitations of access (and low response rates to 'cold-calling' via direct messaging on Twitter), the criteria for selecting Participants were modified to include administrators who were known to the researchers / the organization, or were introduced to the team through mutual connections.

Findings from interviews were analysed to identify commonality / consensus as well as divergence in the problems, solutions, and administrative approaches of the different districts. Learnings have been distilled with regard to the practical concerns with implementing legislation and executive orders, with the aims of formulating a list of dos and don'ts with respect to PHE legislation.

Detailed methodology

Participants – The study had 15 participants – all government officials who had served in one or more district administrations across eight states in the country, during the COVID-19 pandemic (also referred to, in this report, as '**Pandemic**' / '**pandemic**'), in the capacities of District Collector / District Magistrate / Sub-divisional Magistrate; they are referred to in this report as '**Participant/s**'.

Interviewers – The interviewers were two research fellows working with the Vidhi Centre for Legal Policy (also the authors of this report), who were joined, during some of the interviews, by the Team Lead, who provided the Participant with an introduction to the organization and its work, as well as interjecting with additional questions from time to time during the interview. For most of the interviews, an associate fellow or intern was also present, with the limited role of making notes of the Participants' responses to the interview questions.

Subject matter – The Participants were interviewed with respect to their experiences with responding to the COVID-19 pandemic using the existing legal and governance frameworks for PHE preparedness and response, as well as their learnings from these experiences.

Timeframe – The interviews were conducted between March to June of 2022. Most of the Participants had moved to different postings from those that they had held during the first and / or second waves of the pandemic. Although the pandemic is still ongoing, the interviews were conducted from the perspective of the events of 2020-2021, mainly, and the Participants' experiences during the first, second, and / or third waves of the pandemic that took place in India during that period.

Mode and Structure – Four of the interviews were conducted over phone calls, while eleven were conducted via video-conferencing. At the start of each interview, the Participants' consent was sought,

prior to creating a digital recording of the videoconference. In most cases, an associate fellow or intern took detailed notes of the interview questions and responses. 8 out of 11 Participants consented to digital recording, and in those cases, the associate fellow or intern tasked with note-making, reviewed the transcript of the interview and cross-checked these with their own notes after the interview; in the remaining cases, the notes taken by all the interviewers and the note-making associate / intern were collated and cross-checked so as to form as accurate a record of the interview questions and responses as possible.

All of the Participants were offered the option of remaining anonymous, and were assured that prior consent would be obtained before citing any content / quotations from specific Participants. 4 Participants opted to share their experiences with no restrictions on how these were used by the interviewers, while 11 either expressly or tacitly agreed to the second alternative (i.e., where any quotations / citations would be run by them before being published).

With one or two exceptions, none of the Participants were personally known to the interviewers, and in most cases, the interview itself was the first conversation between the interviewers and the Participants, barring prior coordinating text messages and / or emails as well as those exchanged to share an overview of the study with the Participant and obtain their consent to participate in the study. Several of the Participants were introduced to the organization through an intermediary who was personally known to another research fellow at the organization, and who also attended the interviews in those cases, but did not participate beyond introductions.

The interview questions were modified slightly based on learnings from the first few interviews, with regard to: (a) the need for specificity, (b) the need to ensure that the Participant understood the interviewers' intent accurately, (c) the interviewers' interest in focussing a sub-set of questions on certain features of local administrative responses / challenges that previous interviews appeared to hint at.

Review and Analysis – the interview–notes and transcripts (where available) were reviewed and analysed by the research team, utilizing a combination of analytical methods. Trends, commonalities, and peculiarities / divergences were identified across the administrators' experiences, and their specific opinions were recorded with regard to the functioning of the legal and governance framework for public health emergencies in India. The above analyses have been summarized in this report, and filtered through the lens of existing literature on the subject as reviewed by the research team, including learnings from the organization's own research that culminated in the abovementioned March 2021 White Paper.[14]

C. Overview of Research / Interview Questions

Local governance challenges

a. What were the primary or most significant challenges faced by district administrators during the COVID-19 Pandemic?
b. Is it the opinion of administrators, that such challenges would be more effectively addressed through legislation or through some alternative or informal routes or solutions?

[14] Dhvani Mehta, Akshat Agarwal, Kim D'Souza, Shreya Shrivastava, Yogini Oke, 'What Should a Public Health Emergency Law for India Look Like?' (2021) <https://vidhilegalpolicy.in/research/what-should-a-public-health-emergency-law-for-india-look-like/> accessed 03 June 2022

Practical implementation of PHE laws

a. Did the available legal and administrative frameworks provide adequate authority and support to district administrations during COVID-19? If not, then:
   - what were the major gaps in these frameworks, that were revealed during the Pandemic?
   - did the existing frameworks actually hamper response efforts?
   - were administrators constrained to develop ad-hoc workarounds?
   - did administrators come up against legal and other conflict as a result of inadequate legal and administrative frameworks?

b. What are the barriers (if any) to the implementation of the miscellaneous existing PHE-related laws and regulations in general, and in particular the performance of the many such functions assigned to the head of the district administration?

Governmental interactions

a. Were central and state directives found to be adequate and appropriate to address the needs and conflicts that arose in the local level Pandemic response? If not, then in what ways were they found wanting?

b. What were the modes of communication between the district and state and central government offices? Did these methods work smoothly, and if not, what were the workarounds developed to address the communication gaps or procedural roadblocks?

Interactions with the public

a. How did the district administration interact with the public and how did the public respond to PHE response measures devised / enforced by the administration?

b. What role did the community play in responding to the pandemic, was this formal or ad-hoc, and what was the district administration's perspective on community involvement in PHE preparedness and response – past and future?

Legislative or Administrative suggestions

a. Would a more streamlined and 'all-hazards' legislative and administrative approach to PHE preparedness and response better facilitate PHE readiness at the local level?

b. Whether the district administrators had any other suggestions regarding the practical needs and conflicts that should be accounted for in PHE preparedness and response planning.

Overall learnings from COVID-19

What are the major overall learnings from COVID-19 in the context of local PHE preparedness and response needs and efforts (from the perspective of the Participant)?

II. Takeaways – A local perspective on PHE frameworks in practice

As mentioned above, our interview questions were targeted at discovering the experiences of district administrators during the COVID-19 pandemic, in certain broad areas. Set out below is a synthesis and analytical review of the responses received from the Participants (fifteen in total), segregated under the broad heads of inquiry referred to above.[15]

- ***Local governance-specific challenges;***
- ***The realities of utilising / implementing existing legal and administrative frameworks, and the specific inadequacies, barriers, and adaptability (if any) observed / experienced by the Participant.***

Fourteen Participants stated that the guidelines issued by the central government were adhered to in the districts; however, these may have been slightly altered as needed to contain the spread of the virus in a particular area.

One Participant reported that when faced with healthcare infrastructure shortages in the initial stages of the pandemic, the district administration held multiple meetings with local private hospitals, to encourage them to start admitting COVID-19 patients, and offered assistance to facilitate this. Another observation by the same Participant, was that many people waited until their condition became serious, before seeking medical care at designated centres / hospitals, and then struggled to reach a facility in time; the district administration hired buses and arranged for ambulances in an attempt to address this issue, as well as setting up call centres to advise people to seek timely medical help. This increased the burden on emergency healthcare infrastructure.

The need for a legal foundation for administrative action appears to have been addressed by applying all pertinent laws with a broad stroke – the primary objective being to ensure maximum compliance with executive orders, procured by the threat of severe (usually criminal) penalties for violations. The utility of available laws appears to have been derived from their capacity to achieve the foregoing objectives, as opposed to them serving as a guiding or supportive framework for a PHE response.

Eleven Participants observed that while PHE laws helped with providing the force of law (and the perception thereof) to the PHE measures undertaken, the content of the laws themselves did not play a big role in the day-to-day of the pandemic response. Several Participants felt that existing PHE laws were not detailed enough, and that a more comprehensive legal framework is essential to providing administrators with the necessary support for a successful PHE response. The lack of structure also meant that the effectiveness of the PHE response in a particular area was inordinately dependent on the specific administrator in charge, and their drive for innovation and dynamism.

[15] In this section, we have not mentioned the names of the Participants or those of the districts/ states in which they were working, for the purpose of ensuring anonymity.

It was generally felt that in the case of the COVID-19 pandemic, in light of the novel nature of the disease, as well as the unprecedented scale of the PHE, the scope of the law in facilitating the PHE response was more in the room it left for administrative flexibility, than in its prescriptive measures. Greater emphasis was placed on the role of: (a) streamlined executive decision-making processes, (b) the flexibility to undertake informal, need-based, initiatives to respond to challenges as they arose, and in keeping with local ethos, (c) accessibility of funds, without obstructive approval processes, and (d) availability of adequate staff in terms of numbers and training.

- ***The functioning of existing or COVID-19-specific intergovernmental communication and coordination mechanisms;***
- ***Awareness of, and attention to, local needs, in the formulation of norms and directives by higher levels of government.***

At the beginning, administrators did not feel that they were in a position to formulate their own specific measures to tackle the novel disease, and relied on central and state directives and advisories, such as the Ministry of Home Affairs' orders regarding containment measures, and guidance from technical institutions such as the Indian Council of Medical Research (**ICMR**). That being said, it was observed that in some cases, guidelines relating to matters such as the movement of migrant workers via special trains, did not account for the level of detail needed to address the challenge of managing people on the ground, resulting in variations in the manner of implementation between districts, and, in some cases, the need to improvise on the spot.

Nine Participants reported that they submitted feedback to the state government regarding specific observations, suggestions, or concerns with the implementation of state / central directives at the local level, and that this feedback was generally accommodated in subsequent state / central guidelines in several cases.

Thirteen Participants reported no major hitches in communication between different levels of government; they found that higher ups were communicative, and held regular videoconferences to bring the districts up to speed on developments with the pandemic situation. Official communication also took place via text messaging groups on platforms such as WhatsApp, and this was found to be time-saving and convenient.

However, communication gaps were felt to exist between districts and states with regard to the movement of people between jurisdictions. The consequences of these were felt in particular with regard to the management of the movement of migrant workers across the country, where inadequate coordination led to conflict and hardship for the people.

Interestingly, it was noted by a few of the Participants, that informal networks with other administrators, as also a good rapport with local political leadership, were two unofficial but effective avenues of communication and coordination during the pandemic.

- ***Challenges relating to communication with the public, and their receptivity to COVID-19 response measures devised / enforced by the district administration.***

Modes of public communication were reported to have ranged from the use of existing public announcement systems at the village level, where the village *kotwal* or other designated personnel announce important information using a loudspeaker, throughout the village, to social media, and public helplines. Public helplines were a common tool favoured by several Administrators, and were observed to have been quite widely patronised and well-received by the public as well.

Three Participants mentioned that they made their personal contact numbers available to various stakeholders, and responded to and attempted to address all calls and issues that came to their attention through these avenues, as well as other informal communication channels such as impromptu messaging groups on WhatsApp that were created by members of the community and civil society, in an effort to contribute to and participate in the PHE response. Those Participants also noted that their existing work and reputation within the community, and previous interactions with various stakeholders, played a significant role in facilitating a cooperative environment in the context of the pandemic response at the local level.

Six Participants felt that the fear of the unknown disease as well as the threat of criminal penalties under the laws quoted by the authorities, was the major driving force in public compliance with government PHE measures. Public compliance was frequently a challenge during various phases of the pandemic, and the administration sought to engage and reason with the public - this had some success, but where that failed, criminal laws and more aggressive physical policing measures had to be resorted to in order to ensure containment orders were followed, and law and order was maintained.

Four of the Participants were posted in areas with large tribal populations, and many were in remote or rural areas, with less access to the media and information generally, than city-based communities. The issues that arose in these jurisdictions were often due to language barriers and a lack of understanding of the relatively unfamiliar concepts of the pandemic and a lack of experience with the novel disease. Two Participants reported having learnt one or more local languages, which they were not familiar with before being posted in the district in question, so as to facilitate communication and engagement with the community. One Administrator recounted significant efforts to adopt innovative modes of communication, and create accessible informational and educational materials, to facilitate meaningful community participation and cooperation with the authorities in responding to the PHE, and ideally, obviate the need for the imposition of unnecessarily harsh measures and penalties. These measures included the creation of public service videos with influential people from the locality, such as a well-known religious leader, and a reputed community doctor; these outreach programs were in the local language, for better reach among the locals, as compared to standard announcements in national and state languages.

Interestingly, two Participants posted in tribal rural areas observed that, in rural, remote, and tribal areas, a relatively strong sense of community, seemed to play a role in these communities being less oppositional, and more receptive to directives from the local administration than, for instance, populations in metropolitan areas that were observed to be more individualistic, with less regard for the larger interests of the community in the context of the pandemic, and more likely (for better or worse) to question the orders of the authorities. One Participant noted the significant roles of local leadership, and public figures in villages. The Administrator engaged extensively with *sarpanches*, tribal leaders, and women's employment / self-help groups who were well known in their communities, mobilising them to facilitate communication with the public, and indirectly as delegates in regard to procurement of compliance with administrative directives within their communities.

- ***The role and nature of community involvement in the COVID-19 pandemic response, as well as the Participants' perspective on community involvement in PHE preparedness and response efforts.***

While most participants agreed on the need for meaningful community involvement in pandemic response, the approaches adopted by them were wide-ranging.

The community was involved mostly in informal, organic ways for participating in public awareness, relief measures, and monetary assistance. Spontaneous participation was encouraged instead of formal

inclusion, since the former allowed for relaxation in bureaucratic procedure and financial rules. For example, one participant mentioned that they had a donation box in their office which was left open for anyone to contribute to without any procedure, and that they were added to local WhatsApp groups by CSOs or volunteer organisations offering their services in specific areas.

Two Participants observed that while community participation was enthusiastic towards the first few months of the pandemic, interest dwindled over time – thus it was not sustainable throughout the pandemic.

- ***The Participants' suggestions for legislative or administrative reform in regard to PHE preparedness and response, from the perspective of practical needs, conflicts, and obstacles to implementation.***

One participant mentioned that the information dissemination envisaged in the expenditure protocol under the DMA is limited to short-term and myopic mechanisms such as loudspeaker announcements and posters/ pamphlets. Any initiative catering to long-term behavioural change had to be funded through other means such as tribal area development funds. Moreover, they could be utilised only because of pre-existing relationships with the community and senior bureaucrats. They could do away with some of the complexities of bureaucratic procedure relating to expenditure in such cases. Therefore, this participant suggested that the revised PHE legal framework take into account such concerns by developing simpler financial procedural norms - while also ensuring that they are not susceptible to abuse.

Another participant mentioned the need for significant change in evaluation metrics within the bureaucracy. Instead of analysing performance of a district (official) through disjointed quantitative metrics such as number of containment zones, positivity rate, etc. – which often leads to an incomplete understanding of the larger context and encourages data mismanagement at the district level – more contextual qualitative analysis is crucial. For example, the positivity rate or number of positive cases in a district could be higher because of its connectivity and location. Bed occupancy may be lower because the total number of beds is higher. The number of admissions may be lower because most people have milder infections. Assistance may be required from the state for catering better to homeless persons and other marginalised groups of people during the pandemic. Aspects that are not squarely related to treatment of the disease - for example, education, relief measures, etc. may require more attention from higher levels of government. Performance evaluation - and ranking - systems as well as feedback mechanisms must include these diverse factors in their assessment of the situation.

Further, tying these numbers to performance evaluation of officers is often counterproductive and leads to hiding of crucial information or requests for guidance or assistance. While officers should be held accountable for their performance during PHEs and other disasters, such evaluation should be based on sound metrics as opposed to standardised, decontextualized numbers.

A third Participant mentioned the need for relaxation of financial and other bureaucratic rules, within certain limits, in such emergencies, that would equip the district to be more autonomous in terms of procurement as well as recruitment.

- ***Overall learnings from the COVID-19 pandemic in regard to local PHE preparedness and response needs from the perspective of the Participant.***

Three participants opined that the law, as well as funding allocations, are based on a short-term view of emergency management – they do not contemplate long-term investments in PHE readiness (such as programs for behavioural change & meaningful public engagement). Disaster management training of administrators is limited to short-term disasters such as earthquakes and floods – it is not comprehensive enough.

Further, although adequate funds were available for the pandemic response, this was often drawn from other departments, contributing to the stalling of other essential public health interventions and public services such as maternal and infant health / nutrition.

In terms of the law itself, Participants mentioned that The DMA and EDA were used mostly as enabling and interchangeable laws with broad powers vested in government and administration, but providing little guidance or restraint on the exercise of such powers.

Key takeaways

Legal and administrative frameworks in practice

Participants generally seemed to feel that, while the existing PHE legislation helped by providing the force of law (and importantly, the perception thereof, among the public) to the authorities' PHE response efforts, the content of the laws themselves were not really in issue when it came to implementation. They noted, however, that they did not feel that existing frameworks adequately prepared or equipped them to address a PHE on the scale of the COVID-19 pandemic.

Some Participants noted that the COVID-19 experience pointed to the need for more comprehensive and future-proof legal and governance frameworks, including the institution of detailed protocols and adequate training for administrators and others on the frontlines during a PHE, so that the effectiveness of PHE management was not largely dependent on the creativity or resourcefulness of individual administrators.

Intergovernmental coordination

Participants mentioned video-conferencing, phone calls, and texts as the primary means of communication with state-level functionaries, and less frequent periodic video-conferences with central-level or ministerial functionaries. In their opinion, following the initial couple of weeks of the pandemic, communication gaps were not significant – and they were expected to call their supervisors for information or guidance. It was, in fact, the fast-changing nature of the instructions that needed to be adapted and explained to all district-level workers (who were largely untrained in pandemic or PHE management) within a matter of a few hours, only to be modified again frequently, that posed major challenges.

It was apparent that pre-existing relationships, especially within the administrative services network, eased communication in many cases. Instead of relying mostly on formal structures, informal networks were more helpful in keeping everyone informed, in better understanding of instructions, and in learning from one another about initiatives and approaches that worked.

Autonomy at the district-level

The DMA authorises the district magistrate to exercise a range of powers and take decisions within their jurisdiction. The COVID-19 pandemic, being a disaster that required a level of parity and guidance across

different jurisdictions, saw central ministry-level directions applied across the board, and raised questions about the level of flexibility and autonomy enjoyed at local levels to tailor governance approaches to local contexts.

According to four of the Participants, districts were, in many cases, ill-equipped to devise their own guidelines or framework to manage the pandemic in light of the sudden and unfamiliar nature of the PHE. Some others felt that certain instructions, especially those relating to the embargo on social and economic activities for the nation-wide lockdown – as well as certain containment strategies – should have been accompanied by room for deviation in some cases. For example, complete shut-down of anganwadi centres in remote villages where contagion was almost non-existent especially during the first wave, creation of large containment zones that hindered movement during emergencies but did little to contain the infection in small cities, etc. were seen to be inappropriate and excessive.

[Three of the Participants did note, however, that while certain non-negotiable measures were mandated by central and state governments, there was ample room for district administrators to decide the manner in which they carried out their responsibilities within the guidelines issued, and sufficient leeway in day-to-day administration.]

While some officers tried to raise recommendations based on local issues through formal channels – which were sometimes accepted after a few days of deliberation – some others said that they went ahead with their discretion in more remote or rural areas where there was less scrutiny.

Public engagement and communication

As per Section 31 of the DMA, every district should have a District Plan for disaster management, which must include response plans and procedures providing for the dissemination of information to the public. This district plan seemed to be missing for the districts under our study. Moreover, even if it were to be in place, it would likely be directed at "conventional" disasters as contemplated under the DMA, such as floods and earthquakes, as opposed to public health emergencies – which require larger focus on behavioural changes and longer-term awareness generating efforts, regarding pandemic-appropriate actions.

As seen above, some Participants adopted special initiatives for better engagement and communication in rural and tribal areas. However, this too was largely dependent on the initiative of individual administrators, and their pre-existing relationships with the local communities – as opposed to being included in the structures under legal and governance frameworks.

Community and civil society engagement

The laws applied in India for pandemic management do not provide for civil society inclusion as a matter of right or responsibility. Towards the latter half of the first wave, some states like Jharkhand formally enlisted NGOs that were working on specific aspects of pandemic management, and included them in district-level meetings and briefings. Some Participants were of the opinion that the informal, organic approach to including civil society – whether CSOs or community members in general as volunteers or donors – was preferable in terms of facilitating their participation and receipt of assistance by the administration, without having to overcome bureaucratic hurdles.

The nature and degree of inclusion of civil society and the community, thus, appears to be largely dependent on the decisions of individual administrators. This has two kinds of consequences on either end of the spectrum – insufficient public participation in feedback mechanisms and decisions at the local level, on the one hand, and onerous obligations or unfair expectations from the community and civil society, to fulfil State obligations, on the other.

Participants' Suggestions regarding the Questions under Study

Among the fifteen Participants, views regarding the pandemic management and recommendations for the legal and administrative framework were wide-ranging.

Overall

Four Participants indicated that India's pandemic response was well conceived and executed, with most issues being attributable to the suddenness of the pandemic and overall lack of knowledge regarding COVID-19 in general. They were of the opinion that there was no issue with the system itself, and some hiccups were inevitable in such an emergency.

Three Participants suggested that the system's reliance upon the administrators' individual discretion for effective execution was preferable to strict protocols because it offered them flexibility to adapt processes for implementation in the local context.

Regarding the existing legal framework

One Participant felt the need for a more facilitative framework for the generation of public awareness during a PHE – one that is not limited to standard approaches (such as posters and banners) – but focuses more on behavioural and long-term attitudinal changes pertaining to good practices during a PHE (for instance, in regard to hygiene, distancing, and reporting during a pandemic). They also mentioned that incorporating this in the DMA or any future PHE law would facilitate the allocation of funds for such purposes, thus reducing reliance on the emergency application of funds generally earmarked for particular needs such as tribal welfare.

Two other Participants urged that there was a need to ease some of the financial norms at the district level, so as to enable quicker and more independent decision-making at local levels during a PHE.

Regarding the administrative framework

Two Participants advocated the need to move away from administrative evaluation metrics that focus solely on decontextualised numbers of cases, beds, deaths, etc. They asserted that judging district performance by numbers alone, without taking into account their unique geographies, labour markets, politics, economies, and other socio-economic factors, leads to bias and is often counter-productive.

Two others mentioned that owing to political disagreements between the centre and several states, centre-state coordination was affected in several instances, and that there was need to insulate administrative functioning from these effects.

Regarding capacity and available technology

One Participant pointed out the need for better access to and deployment of communication technology so as to facilitate regular communication of information updates as well as administrative guidelines between district administrators and the public.

One other Participant felt that the state government should play a more hands-on role in building infrastructural capacity such as hospitals, laboratories, and testing centres, rather than leaving this solely to the districts – which, during a PHE may not have adequate technical knowledge / capacity or control over funds and human resources for this.

Regarding powers of the local administration

Three Participants mentioned that while guidance is essential from the central and state levels of government, especially during a PHE such as the COVID-19 pandemic, district administrations should be given more power in deciding how such guidelines apply in the specific context of their districts. They mentioned that although there were ways to adapt standard guidelines (for example, sizes and management of containment zones), these were based on post-facto permission procedures which were often time-consuming and led to preventable damage. Therefore, a balance of guidance and autonomy is ideal.

III. Way Forward

The findings from this study raise some complex questions regarding the ideal governance approach to public health emergencies in the Indian context. It appears that certain aspects of PHE management may be best provided for by way of a codified legal and governance framework, which provides the executive with adequate guidance and support while leaving room for flexibility in implementation as per the needs of a given context.

Because of the limited sample size, it was not possible to draw a distinct conclusion in this regard from the interviews alone; however, an interesting theme across interviews was the sense that the approach to implementation of the PHE response at the local level was left to the prerogative of individual officers, and outcomes inevitably varied rather significantly based on these variables. It also appeared that existing internal relationships between government - political and bureaucratic - as well as existing dynamics and past engagement with the community influenced the ease of implementation of pandemic response measures by the local administration.

One takeaway from the foregoing observation, is that in order to ensure the safeguarding of essential rights, and the performance of necessary duties, in the context of PHE preparedness and response, it may be necessary to entrench certain non-negotiable principles within a PHE legislation, while allowing for organic implementation, and avoiding encroachment on areas where executive discretion and flexibility are key to effective and meaningful governance.

Apart from legislation relating squarely to PHEs, a few recommended changes in the administrative and governance framework for PHE preparedness and response in India, are outlined below:

➔ District Administrative officers need adequate training and support for the numerous roles and diverse range of responsibilities they occupy / with which they are tasked.

Our findings demonstrate that officers at the district level, especially district magistrates, occupy multiple roles simultaneously. Apart from managing the overall administration, law and order, and judicial duties in the district, they chair committees on health, social welfare, disaster management, elections, and various district level funds, among others. While it is important for an administrative head to have oversight of diverse offices and functions of the administration, an overabundance of diverse and concurrent roles can hamper efficient execution. This has been demonstrated during the pandemic, during which other essential functions of the State (such as nutrition and education) were side-lined while precedence was accorded to the various stages of pandemic management.

Therefore, apart from providing intensive and regular training in their diverse roles, DMs and their offices should receive technical and expert support from subject-area representatives in key decision-making positions. This would allow subject-area specific

personnel to execute substantive planning and implementation roles, with the DM having operational oversight.

➔ There is a need for clearer and more comprehensive PHE preparedness & response protocols, in addition to better personnel training and capacity building - especially at the local level. While it may not be possible or desirable to devise standardised protocols for all PHEs, orienting administrators to the basics of people-centred, and evidence-based public health governance is essential.

First, disaster management training modules used for officers at all levels, and annual staff training modules for DMs, Disaster Management Officers, and health cadres, should include substantive material on public health emergencies. Instead of focusing exclusively on short-term natural disasters such as floods and earthquakes, the module should also provide training on approaches to managing longer-term emergencies which require reliance on pre-existing infrastructure as well as collaboration with third-party experts and civil society to devise innovative and urgent solutions. Focus must shift from the adoption of policing approaches prioritising administrative ease, to people-centric approaches prioritising public welfare and diverse local concerns.

Second, officers should receive training regarding their diverse roles during a PHE, depending on the level of administration they occupy at a given moment. For instance: (a) at the district level, their role would be more granular and implementation-oriented along with some context-specific autonomous decision-making; (b) State-level officers may be called upon to focus more on oversight, strategy, engaging with subject matter experts, building institutional capacity, rationalising resources, devising meaningful monitoring frameworks, and creating structures for communication and collaboration between districts and other states; (c) at the central level, the mandate would extend to requirements such as engaging with relevant national and international agencies / institutions, creating larger legal and advisory frameworks, identifying avenues and networks for pharmaceutical product sourcing, and creating inter-state networks for collaboration (for example, creating a functional inter-state transport network to ease migrant workers' distress). More comprehensive and up-to-date training and capacity building would help officers navigate and execute their roles and responsibilities in a federal structure, in an emergency context, instead of relying on individual innovations and connections.

Such training should also be provided to other members of the administration (not just central or state administrative service officers) as part of their annual staff training programmes.

➔ Such a framework should anticipate increased strain on public infrastructure during a PHE and provide for stand-ins to facilitate delivery of other essential public services.

Administrators should not be constrained to drawing resources from funds allocated to other essential functions, during a PHE. The DMA, or any other legislation on PHEs, should

incorporate provisions for allocating funds for efforts focusing on allied facilities, relief, and awareness generation for behavioural change. While deputation from other offices may be necessary in the short-term, human resources need to be rationalised in such a way that deputation does not become the norm.

➔ A heavily top-down approach to a PHE response can conflict with ground realities, and hinder local efforts; therefore, there is a need for improved investment in, and empowerment of, the third tier, to build capacity, and facilitate bottom-up contributions to the planning and implementation of PHE preparedness and response measures.

Such empowerment should not just be in terms of training and resources (human and financial), but also in terms of decision-making. For example, whether or not *anganwadi* centres and schools need to be closed in different parts of a district, during a PHE, or how containment zones should be decided on the basis of the size and density of populations, etc., should depend on decisions made at the local level in accordance with technical and administrative guidance from the district and state levels, as well as situation-specific cost-benefit analyses. At the same time, broader guiding principles pertaining to the PHE in general and powers and options available to the local administration in particular, should be formulated and disseminated in a timely manner at the central and state levels.

➔ There is a need for improved monitoring and evaluation metrics at the various levels of governance to align with the goal of people-centred and evidence-based PHE management.

Currently, a district's (and hence its administrators') performance during Covid is judged merely by metrics such as the numbers of cases reported, positivity rates, and bed occupancy rates. Apart from failing to provide a complete picture of the situation and its challenges, such metrics incentivise underreporting at lower levels of administration, since the responsibility for reporting lies with the officials being assessed themselves. Instead, more contextualised metrics which take into account local challenges and events should be evolved in advance, and implemented by the administrators at each stage, according to protocol. Two changes are important:

- Instead of following an adversarial model in which officers face negative consequences when data (for instance, regarding: numbers, manner of spread, and deaths) is alarming, owing to genuine challenges as opposed to issues with performance, evaluation systems need to provide scope for nuance in assessment, and avenues to pivot on strategy as needed. While ranking and competition among districts may be beneficial in some contexts, the current model needs to be reconsidered when it comes to PHEs.

- At the same time, a neutral observer position is needed, to verify the reliability and correctness of data reporting.

➔ Such a framework should facilitate meaningful inclusion of diverse members of the community and civil society, in PHE preparedness and response

The DMA, or any other law that is developed for PHE preparedness and response, should include proper avenues for civil society and expert representation in advisory and decision-making committees. Diverse civil society representation of the concerns of the range of socio-economic stakeholder groups (such as religion, caste, gender, commerce, and industry), as well as relevant subject matter experts on public health and other pertinent fields, must form part of decision-making processes and bodies. While they should be given the power to engage in raising social concerns and demands, and be facilitated with procedural help and appropriate compensation, for participating in relief measures, the law or its implementation must ensure that this does not result in the shifting of the burden of the State's responsibilities, to the public / civil society.

➔ There should be a larger focus on building resilient systems, rather than expecting people to be more resilient in times of distress

Any law or policy framework pertaining to PHEs must be founded on the idea of preparedness as a critical component of an effective PHE response framework. Building adequate capacity in health systems, recruiting and training sufficient workforce, sensitising administrators at all levels regarding inclusivity, responsiveness, and people-centric approaches in general, would help create well-prepared and resilient governance systems. This also requires a focus on the proper implementation of allied laws and schemes (dealing with health, nutrition, sanitation, housing, water supply, etcetera), along with consistent engagement with relevant experts and the public so that systems incorporate the latest scientific evidence and engage the community in the preparedness, response, and recovery stages of a PHE. Clear allocation of responsibility is needed under the law, along with transparent and accessible accountability mechanisms, to facilitate the timely and meaningful resolution of grievances and disputes.

These administrative learnings alongside a PHE framework that anticipates diverse and evolving local needs, and allows the flexibility for prudent adaptation of protocols, would go a long way to ensuring a smoother and more cohesive whole-of-society response to future PHEs – by leveraging local strengths and also providing effective support.

www.vidhilegalpolicy.in

Vidhi Centre for Legal Policy
A-232, Defence Colony
New Delhi – 110024

011-43102767/43831699

vclp@vidhilegalpolicy.in