CONSTITUTIONAL GOVERNANCE AND FEDERAL CHALLENGES DURING THE N-COV-19 PANDEMIC: A CRITICAL STUDY OF INDIA

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ABSTRACT

The unprecedented public health emergency precipitated by the outbreak of Novel Corona Virus (N-CoV-19) inflicted a devastating catastrophe upon humanity on a scale seldom witnessed in modern history surpassing in its toll even the darkest moments of atomic warfare and the deadliest natural calamities. At the height of the pandemic, even the most powerful and scientifically advanced nations of the world found themselves ill-equipped and confounded by the viral onslaught, forced to acknowledge the limits of human preparedness in the face of an invisible enemy.

India, notwithstanding its vast administrative apparatus and constitutional framework, was no exception. The country witnessed a relentless surge in infection and mortality rates, ultimately recording over 5.27 lakh deaths attributable to the pandemic. While the Central and State Governments undertook commendable proactive measures in response, the constitutional legitimacy of "HOW" those measures were implemented demands rigorous scholarly scrutiny.

This paper critically examines the Central Government's controversial recourse to the National Disaster Management Act, 2005 (NDMA) to govern what was, in constitutional terms, a public health crisis, a subject falling exclusively within the State List under Entry-6 of the Seventh Schedule of the Constitution of India. By deploying an ordinary law designed for natural and anthropogenic disasters to centralised command and control over COVID-19 governance, the Centre not only strained the constitutional boundaries of federal architecture but also replicated, through executive fiat, effects that are ordinarily permissible only during a formally proclaimed constitutional emergency. The paper argues that such action constituted a colourable exercise of power, systematically undermining State autonomy in

a domain the Constitution expressly reserves for the States.[1]

Furthermore, this paper examines how the pandemic response including lockdowns, surveillance measures, and restrictions on movement, religion, and assembly, led to a sweeping curtailment of fundamental rights under Part III of the Constitution, ordinarily permissible only through the activation of emergency provisions under Part XVIII. The paper also critically interrogates the continuing legislative inertia in response to the Sarkaria Commission's recommendations and argues for a constitutional reinterpretation of concepts such as 'war', 'external aggression', and 'internal disturbance' to encompass bio-terrorism and pandemic emergencies. A failure to enact these reforms, this paper warns, will leave India fatally underprepared for the next inevitable public health catastrophe.

Keywords: COVID-19, Pandemic, Epidemic, Emergency Provisions, Constitution of India, War, External Aggression, Internal Disturbance, Disaster, Federalism, NDMA, Bio-War, Bio-Terrorism, Natural Calamity, Anthropogenic Calamity, Fundamental Rights, State List, Public Health Emergency.

I. INTRODUCTION

What could be more catastrophic than a crisis that simultaneously imperils every dimension of human existence health, livelihood, liberty, and dignity and that to without warning or precedent? The outbreak of the Novel Corona Virus (N-CoV-19), commonly known as COVID-19, did it precisely. It paralysed the entire world with a swiftness and ferocity that exposed the vulnerability of even the most sophisticated governance structures. As one researcher aptly observed, pandemic-associated terminologies such as 'quarantine', 'lockdown', 'containment zone', and 'social distancing' transitioned from obscure technical vocabulary into the everyday *lingua franca* of communities even in the remotest corners of the globe.[2]

Over four years since its onset, the pandemic's devastation continues to reverberate. As of March 2026, COVID-19 has claimed as much as over seventy lakh lives globally,[3] inflicting damage more sweeping than many conventional wars. Crucially, the virus observed no

[1]India Const. sched. VII, list II, entry 6 (State List). Entry 6 of the State List explicitly assigns "Public health and sanitation; hospitals and dispensaries" to the exclusive legislative domain of the States. This constitutional assignment reflects the Constituent Assembly's deliberate judgment that public health governance is intrinsically local in character and must remain under State control.

[2]*Lockdown, Quarantine Now Part of Everyday Talk*, Times of India, Apr. 24, 2020, at 7.

[3]Worldometer, *Coronavirus Death Toll*, https://www.worldometers.info/coronavirus/coronavirus-death-toll/ (last visited Sept. 21, 2024, 2:00 PM).

hierarchy of development or power, that is to say, the countries such as the United States and the United Kingdom, with their formidable scientific and medical establishments, were overwhelmed and forced to concede, at least momentarily, the inadequacy of their preparedness. The pandemic has, in the most visceral terms, exposed the fragility of human civilisation's institutional architecture.

India, with its sub-continental dimensions and a population exceeding 1.4 billion, faced a formidable challenge of unimaginable proportions. The country has recorded over 5.25 lakh deaths from COVID-19 as of August 2024,[4] and has endured multiple waves of infection, each characterised by new and more virulent variants, including the Delta and Omicron variants, as well as the alarming emergence of black, white, and yellow fungal co-infections. Compounding the crisis were acute oxygen shortages in hospitals across the country, a chaotic and inequitable vaccine rollout, and the simultaneous devastation wrought by three major cyclones, namely, Amphan (2020), Tauktae and Yaas (2021) which took place in States already burdened with massive COVID case loads.

Undoubtedly, both the Central and State Governments took extraordinary measures to confront this unprecedented challenge. However, the constitutional legitimacy of those measures, particularly the Centre's centralisation of power through ordinary legislation in a domain constitutionally reserved for the States, and the consequent erosion of fundamental rights demands critical examination. The question this paper poses is not merely whether the government acted, but whether the manner in which it acted was constitutionally sound. The modus operandi of governance during the pandemic reveals a troubling pattern: the invocation of ordinary legislative instruments to produce constitutional effects that ordinarily require a formal proclamation of Emergency under Part- XVIII of the Constitution of India.[5]

The Central Government's decision to invoke the National Disaster Management Act, 2005 (NDMA) and the archaic Epidemic Diseases Act, 1897, rather than activating the constitutional emergency provisions, raises profound questions about the legality and sustainability of the pandemic-era governance framework. Specifically, it calls into question whether restricting fundamental rights guaranteed under Part-III of the Constitution[6] through

[4]Worldometer, *India COVID-19 Statistics*, https://www.worldometers.info/coronavirus/country/india/ (last visited mar, 28, 2026, 2:00 PM).
[5]India Const. pt. XVIII (Emergency Provisions).
[6]India Const. pt. III (Fundamental Rights).

ordinary legislation(s) rather than through constitutionally prescribed emergency mechanisms, is legally tenable in a constitutional democracy premised on the rule of law and federal governance?

II. SPECIFIC ISSUES EVOLVED DURING THE N-CoV-19 PANDEMIC

Notwithstanding India's experience with prior epidemic outbreaks and disaster scenarios, the nation was found singularly unprepared with a comprehensive and constitutionally coherent legal framework to govern a public health emergency of COVID-19's magnitude. Four principal constitutional and governance issues merit detailed examination:

(a) Government action without adequate legislative framework and the consequent violation of India's federal structure;

(b) Administrative actions leading to chaos, lawlessness, and institutional breakdown;

(c) The Emergency Provisions of the Constitution in light of a public health exigency of constitutional dimensions; and

(d) Systematic violation of fundamental rights under Part III of the Constitution.

A. Government Action Without Proper Legislative Framework and Violation of Federal Structure

The Central Government's response to the COVID-19 pandemic was anchored in its invocation of the National Disaster Management Act, 2005 (NDMA), under which it purported to declare the pandemic a 'disaster' and proceeded to issue a comprehensive set of regulations, guidelines, and directives under Section 10 of the said legislation. These directives were binding upon State Governments and directed all State authorities to align their actions with the Centre's policy framework. In doing so, the Centre effectively assumed command over a domain called "public health" that the Constitution of India explicitly and exclusively vests in the States under Entry 6 of List II (State List) of the Seventh Schedule of the Constitution of India.

This action constitutes a textbook case of colourable legislation: the Centre, unable to legislate directly on public health (a State subject), deployed a tangentially related statute i.e.

the NDMA[7] in order to produce an identical regulatory outcome. The Supreme Court of India has long recognised that the doctrine of pith and substance, and the prohibition against colourable exercise of legislative power, are foundational to the preservation of the federal structure. As the Court held in *S.R. Bommai v. Union of India*, federalism is an inalienable component of the Constitution's basic structure.[8]

The definitional architecture of the NDMA itself renders the Centre's invocation constitutionally suspect. Section 2(d) of the statute defines 'disaster' in terms of catastrophes arising from natural or man-made causes, with no reference whatsoever to pandemics, infectious diseases, or biological events.[9] The statute's preamble further confirms its legislative intent: the NDMA was enacted to address natural and anthropogenic calamities,[10] not to serve as an omnibus instrument for governing public health emergencies. By stretching the NDMA's definitional scope to cover a pandemic, the Central Government engaged in an act of statutory overreach that raises serious questions under the doctrine of ultra vires.

Compounding the constitutional infirmity is the simultaneous invocation of the Epidemic Diseases Act, 1897, a colonial relic of merely five sections, enacted when India was a British dominion and public health governance was a colonial administrative concern rather than a constitutional guarantee.[11] This statute, designed for localised epidemic outbreaks of a bygone era, is manifestly inadequate for governing a multi-wave global pandemic that demands real-time, science-based, and rights-respecting legislative responses. The regulations and guidelines issued by State Governments under this Act were frequently inconsistent with those

[7] The National Disaster Management Act, 2005

[8]S.R. Bommai v. Union of India, (1994) 3 SCC 1, 151 (India). The nine-judge constitutional bench in *Bommai* conclusively held that federalism is part of the "basic structure" of the Constitution of India, which cannot be abrogated even by a constitutional amendment. Consequently, any legislative or executive action that undermines the federal division of powers including the Centre's encroachment upon State subjects through ordinary legislation during the pandemic is constitutionally impermissible.

[9]NDMA s. 2(d) (India). The statute defines *disaster* as "a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area." Significantly, no explicit reference to pandemics, biological events, or infectious disease outbreaks appears in this definitional framework, rendering the Centre's invocation of the statute to govern COVID-19 constitutionally dubious.

[10]National Disaster Management Act, 2005, pmbl. (India). The law was enacted to ensure proper and efficient management of disasters, along with all related and supporting matters. Its origin and development were influenced by India's experiences with both natural disasters and human-made catastrophes.

[11]Epidemic Diseases Act, 1897, pmbl. (India). This colonial-era statute — enacted when India was under British rule — consists of a mere five operative sections and was designed to empower authorities to take measures against "dangerous epidemic diseases." Its skeletal framework is wholly inadequate for governing a multi-wave global pandemic of the twenty-first century.

issued by the Centre under the NDMA, generating regulatory confusion and a constitutional vacuum at the very moment when clarity and coordination were most urgently needed.

The problem presents itself in a binary constitutional dimension. On one hand, public health being exclusively a State subject, any direct central legislation on the subject would be ultra vires and violative of the federal structure which a basic structure element is by itself as confirmed in *Kesavananda Bharati v. State of Kerala.*[12] On the other hand, the pandemic being a crisis of national and transnational proportions, uncoordinated State-level responses would clearly be inadequate. The central constitutional question is therefore: to what extent, and through what constitutional mechanism, is Central intervention permissible?

It is submitted that the constitutionally principled answer lies not in ordinary legislation, but in the activation of the emergency provisions under Part XVIII of the Constitution, specifically Articles 352 and 355, which are designed precisely to enable the Centre to assume greater governance responsibility in extraordinary situations, subject to the robust constitutional safeguards of parliamentary scrutiny, judicial review, and temporal limitations. The Centre's choice to bypass this framework in favour of ordinary legislation, while producing functionally equivalent outcomes represents a profound governance failure with serious constitutional consequences.[13]

B. Actions of the Government Leading to Chaos and Lawlessness

A granular analysis of the administrative architecture during the pandemic reveals a three-tiered governance structure that, far from providing clarity and coordination, generated confusion, jurisdictional overlaps, and a palpable breakdown of the chain of command wherein each level claiming the shelter of a different legal instrument.

At the apex, the Central Government imposed a twenty-one-day nationwide lockdown on 24 March 2020, purporting to act under the NDMA, 2005, and issuing a cascade of

[12]Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225 (India). The Supreme Court's landmark decision established the basic structure doctrine, holding that while Parliament possesses wide amending power under Article 368, it cannot destroy or abrogate the essential features of the Constitution. Federalism, separation of powers, and fundamental rights have since been consistently recognized as basic structure elements.

[13]The Public Health (Prevention, Control and Management of Epidemics, Bio-terrorism and Disasters) Bill, 2017 (India). This proposed legislation represented an attempt to consolidate and modernize India's fragmented public health legal framework. However, since "public health and sanitation" is a State List subject under Entry 6, List II of the Seventh Schedule, the Union's competence to enact such comprehensive legislation remains constitutionally contested.

guidelines that were frequently revised, often without adequate notice. Simultaneously, several State Governments had already imposed their own lockdowns even before the Centre's proclamation like the State of Odisha, for instance, declared its lockdown on 21 March 2020, three days prior to the date when the union imposed the national Lockdown, by legitimately exercising powers under the Epidemic Diseases Act, 1897. The divergence between Central and State guidelines on permissible activities, movement, and essential services created profound confusion among citizens caught between conflicting authorities claiming legal mandate.

At the district and local level, police authorities and executive magistrates invoked the general provisions of Section 144 of the Code of Criminal Procedure, 1973 to impose movement restrictions, while Sarpanches of Gram Panchayats were vested with collector-level powers, a delegation of authority whose constitutional propriety remains extremely questionable. This fragmented governance architecture not only undermined the rule of law but also created a chilling effect on civil liberties, with enforcement actions being taken under ambiguous and sometimes overlapping legal frameworks that left citizens uncertain and confused of their rights and obligations.

The absence of a unified, constitutionally coherent command structure during a national emergency is not merely an administrative inconvenience, rather it is a constitutional failure. The principle of separation of powers and the federal division of legislative and executive authority demand that extraordinary powers be exercised within extraordinary constitutional frameworks, not through an improvised patchwork of ordinary legislation. The confusion generated by the pandemic governance framework demonstrates, with sobering clarity, the urgent need for a dedicated constitutional and legislative mechanism for managing public health emergencies.

C. Emergency Provisions of the Constitution in Light of Public Health Exigencies

Part XVIII of the Constitution of India vests in the President the power to proclaim a national emergency when the security of India or any part thereof is threatened by war, external aggression, or armed rebellion.[14] Article 355 further imposes a constitutional duty upon the

[14]India Const. art. 352. Article 352(1) empowers the President to proclaim a national emergency if "the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or armed rebellion." The conspicuous absence of biological threats, pandemics, or public health catastrophes from this enumeration forms the central lacuna this paper seeks to address.

Union to protect every State against external aggression and internal disturbance, and to ensure that every State's governance conforms to the constitutional framework.[15] The conspicuous and deliberate absence of public health emergencies, pandemics, and biological threats from the grounds enumerated in Article 352 represents a lacuna of profound constitutional consequence.

Given the exponential advances in biotechnology and synthetic biology, and the demonstrated capacity of a microscopic virus to paralyse entire civilisations, the constitutional case for reconsidering and broadening the interpretive scope of 'war' and 'external aggression' under Article 352 has become compelling. A state actor's deliberate release of a bio-engineered pathogen or the malicious weaponisation of a naturally occurring virus constitutes, in substance if not in form, an act of external aggression against the targeted State. Such an act of bio-warfare can trigger internal disturbance, cause economic collapse, and destroy the constitutional machinery of governance, with consequences far exceeding those of conventional military conflict.

The proposition may be illustrated schematically: an act of external bio-aggression can cause internal disturbance, which may degenerate into a failure of constitutional machinery in a State, triggering economic collapse and, ultimately, constituting a state of war with an invisible enemy.

The Sarkaria Commission, with considerable prescience, recommended in 1988 that an epidemic or natural calamity of unprecedented magnitude could produce conditions equivalent to a constitutional emergency,[16] yet this recommendation has languished unimplemented for over three decades. The pandemic has vindicated the Commission's concerns with devastating literalness.

The economic devastation wrought by COVID-19 powerfully underscores this constitutional argument. Data published by the National Statistical Office reveals that India's

[15]India Const. art. 355. Article 355 imposes a duty upon the Union to protect every State against "external aggression and internal disturbance" and to ensure that the government of every State is carried on in accordance with the provisions of the Constitution.

[16]Report of the Commission on Centre-State Relations ch. VI (1988) (India) [hereinafter Sarkaria Commission Report]. The Commission, constituted on June 9, 1983 under the chairmanship of Justice R.S. Sarkaria, submitted a comprehensive report comprising nineteen chapters and 247 recommendations in January 1988. Chapter VI thereof specifically addresses emergency provisions and recommends reconsidering the grounds for their invocation, including natural calamities and epidemics of significant magnitude.

GDP contracted by a staggering 23.9% in 2020, the sharpest economic contraction in the country's post-independence history.[17] This economic collapse was directly attributable to the pandemic-induced lockdowns and the failure of the existing statutory framework to provide a constitutionally calibrated, proportionate response. Had the emergency provisions been invoked, the Centre's comprehensive regulatory authority would have been constitutionally grounded, and the protections and safeguards embedded in Part XVIII, including parliamentary oversight and judicial review would have provided a check on executive excess.

It is therefore the principal contention of this paper that the time has unequivocally arrived to amend the Constitution of India to explicitly include bio-terrorism, bio-warfare, and public health emergencies of a specified threshold of magnitude as grounds for the proclamation of emergency under Article 352. Such an amendment would not merely fill a constitutional lacuna, it would represent India's constitutional architecture evolving in response to the existential threats of the twenty-first century.

D. Systematic violation of fundamental rights under Part III of the Constitution

The COVID-19 pandemic precipitated a cascade of fundamental rights violations that, in their scale and simultaneity, find precedent only in the constitutional emergency periods of 1962, 1971, and 1975 to 1977. What renders the pandemic era rights violations constitutionally distinct and far more troubling is that they were effectuated not through the constitutional emergency framework under Part XVIII, but through ordinary legislation and executive action, entirely sidestepping the constitutional safeguards ordinarily applicable to emergency-period derogations of fundamental rights.

The fundamental rights curtailed during the pandemic were extensive and across the board. The freedoms guaranteed under Article-19(1) of the Constitution about movement, assembly, association, and occupation were suspended in wholesale by the nationwide lockdowns.[18] The right to life and personal liberty under Article 21, in its expansive

[17]National Statistical Office (NSO), Ministry of Statistics & Programme Implementation, Govt. of India, *First Advance Estimate of National Income 2020-21* (2021). The NSO data revealed a contraction of India's GDP by 23.9% in the first quarter of FY 2020-21, the steepest such contraction in independent India's economic history — attributable primarily to the nationwide lockdown measures.

[18]India Const. Art. 19(1). Article 19(1) guarantees to all citizens six fundamental freedoms: speech and expression, peaceful assembly, association, free movement throughout the territory of India, residence and settlement, and profession or occupation. The pandemic-era restrictions curtailed each of these freedoms simultaneously an occurrence unprecedented in India's constitutional history outside of formal emergency.

jurisprudential avatar, was compromised through enforced confinement, denial of access to healthcare, and the well-documented oxygen crises in hospitals.[19] The right to freedom of religion under Articles 25 to 28 was curtailed through blanket bans on religious congregations and the closure of places of worship.[20]

Particularly remarkably wrong were the surveillance measures deployed by State Governments that crossed the constitutional threshold of the right to privacy, declared a fundamental right by the Supreme Court in *Justice K.S. Puttaswamy (Retd.) v. Union of India.*[21] Karnataka's practice of stamping the bodies of quarantined persons and requiring hourly GPS-tagged selfies, and Kerala's interception of call data records (CDRs) of quarantined and infected persons without consent, constituted direct violations of the constitutionally protected right to privacy measures that, in the absence of a formal emergency proclamation, lacked any constitutionally legitimate legislative basis.

Equally troubling was the erosion of the right of access to justice under Article 32 of the Constitution which was described by Dr. B.R. Ambedkar as "the very soul of the Constitution and the very heart of it."[22] With the Supreme Court and High Courts operating at drastically reduced capacity and entertaining only 'urgent' matters (a term left dangerously undefined), citizens were effectively denied access to constitutional remedies during the period when their rights were being most extensively violated. The right to a speedy trial, recognised as an integral component of Article 21 by the Supreme Court in *Hussainara Khatun v. Home Secretary, State of Bihar,*[23] was similarly compromised.

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[19]India Const. Art. 21. The right to life under Article 21, as expansively interpreted by the Supreme Court of India, encompasses not merely the right to physical survival but also the right to live with dignity, access to healthcare, a speedy trial, and protection against arbitrary state action. *See* Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608, 618 (India).

[20]India Const.Arts. 25–28. These provisions collectively guarantee freedom of conscience and the right to freely profess, practice, and propagate religion, subject to public order, morality, and health. The state's restrictions on religious congregations including the Tablighi Jamaat gathering and the Kumbh Mela raised significant constitutional questions regarding the proportionality and even-handedness of such restrictions.

[21]Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India). The nine-judge bench unanimously declared the right to privacy a fundamental right protected under Article 21 of the Constitution. The State's pandemic-era surveillance measures — including CDR tapping, mandatory GPS selfies, and bodily stamping of quarantined persons — constitute direct violations of this constitutionally protected right, absent a formal emergency declaration providing the requisite legal cover.

[22]India Const. art. 32. Dr. B.R. Ambedkar described Article 32 as "the very soul of the Constitution and the very heart of it." *See* Constituent Assembly Debates, vol. VII, at 953 (Dec. 9, 1948). The Supreme Court's drastically reduced operations during the pandemic materially impaired citizens' access to this fundamental constitutional remedy.

[23]Hussainara Khatun v. Home Sec'y, State of Bihar, (1979) AIR 1369 (India). The Supreme Court in this landmark case held that the right to a speedy trial is a fundamental right implicit within Article 21 of the Constitution. The

The dignity violations at the intersection of death and the pandemic also merit constitutional attention: reports of COVID-infected bodies floating in rivers, corpses lying unattended in hospital mortuaries for days, and mass denials of the right to dignified burial or cremation each of these constitutes a violation of the right to life and dignity under Article 21, a right that the Supreme Court has held does not extinguish even upon death.

The cumulative effect of these rights, curtailment of which were individually implemented through ordinary law and executive decree rather than through the constitutionally prescribed emergency framework which certainly raises a fundamental question about the constitutional order. If the practical effect of ordinary legislation is indistinguishable from that of a formal emergency, what purpose do the constitutional safeguards of Part XVIII of the Constitution shall serve? The answer must be that they serve the critical purpose of ensuring parliamentary accountability, judicial oversight, and temporal limitation of executive power and all of which were transparently absent from India's pandemic governance framework.

III. CONCLUSION

India's constitutional and legislative response to the COVID-19 pandemic has revealed, with uncomfortable clarity, the structural inadequacies of the country's existing legal framework for managing public health emergencies of extreme magnitude. The reactive tendency of governance clearly indicates that, legislating in the aftermath of catastrophe rather than anticipating and preparing for it has proven devastatingly costly, both in human lives and constitutional integrity.

The Central Government's recourse to the NDMA, 2005, a statute which is neither designed nor equipped to deal with a public health emergency, as the primary instrument of COVID-19 governance, constituted a colourable exercise of power that violated the federal structure of the Constitution, which is admittedly a basic structure element that cannot be abrogated even by constitutional amendment.

By centralising power over public health, which is exclusively a State subject through the instrumentality of ordinary legislation, the Centre effectively replicated the constitutional

near-suspension of judicial functions during the pandemic, with courts entertaining only "urgent" matters without clear definitional criteria, created a chilling effect on citizens' ability to vindicate their constitutional rights.

effects of emergency without assuming the constitutional responsibilities and constraints that accompany it. Such a manoeuvre is constitutionally impermissible and certainly sets a dangerous precedent for future governance crises.

Had the emergency provisions of Part XVIII been invoked at the outset of the pandemic, the constitutional framework would have provided both a clearer legal basis for the Centre's sweeping interventions and a set of robust parliamentary and judicial safeguards against executive overreach. It is entirely plausible that a constitutionally grounded, legally coherent response framework could have mitigated the catastrophic toll of the first wave and potentially forestalled the second. India's governance failure during COVID-19 is, at its core, a constitutional failure.

Furthermore, given the dramatic advances in biotechnology and the growing threat of state-sponsored and non-state bio-terrorism, the constitutional definitions of 'war', 'external aggression', and 'internal disturbance' under Article 352 are dangerously anachronistic. A deliberate biological attack is functionally equivalent to an armed assault in its capacity to cause mass casualties, economic collapse, and institutional breakdown. India's Constitution must be amended to reflect this contemporary reality before the next biological emergency renders the question academic.

IV. SUGGESTIONS

In light of the foregoing analysis, the following legislative and constitutional reforms are respectfully proposed:

First, a dedicated entry should be inserted into List I (Union List) of the Seventh Schedule of the Constitution of India, specifically conferring upon Parliament the legislative competence to enact comprehensive legislation governing pandemics and public health emergencies of national or transnational magnitude. This will resolve the current constitutional ambiguity regarding the Centre's authority to intervene in public health emergencies without displacing the States' general legislative competence over public health under Entry 6 of List II.

Second, Article 352 of the Constitution of India should be amended to explicitly include bio-terrorism, bio-warfare, and public health emergencies of a specified threshold of

severity as grounds for the proclamation of a national emergency. This amendment should also incorporate graduated emergency mechanisms, enabling targeted and proportionate constitutional responses that are calibrated to the nature and geographic scope of the emergency.

The lessons of COVID-19 are written in the most indelible of inks human loss, constitutional disorder, and institutional unpreparedness. If India chooses to ignore them, the next pandemic will not be so forgiving.

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