



Presidium Model United Nations 2021

LOK SABHA

(Background Guide)

AGENDA: Discussing India's Covid-19 Vaccination Policy with special emphasis on reforming the Centre-State Relations

Message from the Executive Board

Greetings, Representatives,

It is hoped that the representatives will be thoroughly researched on all prevalent narratives attached to the agenda. It is a humble request on behalf of the Executive Board to go through the Background Guide in depth to understand necessary perspectives on any given sub-issue.

The content of the background guide shall not be quoted anywhere in the debate. The purpose of this background guide is to merely provide a brief introduction to the agenda mentioned. Your research should definitely not be limited to this guide.

Looking forward to hearing your views!

Regards,

Shashwat Awasthi, Speaker

Introduction

In the past year-and-a-half, the COVID-19 pandemic has laid bare the strengths and weaknesses of all forms of political systems and structures: democratic and authoritarian; unitary and federal; and every model in-between. Our agenda focuses on federalism.

Given the diffused and decentralized overall pathway followed by a federal structure of government, there were legitimate concerns over how countries with such a system could handle a rapidly spreading pandemic of a highly infectious disease. It acquired a serious tone when the pandemic began exposing the vulnerabilities of the United States (US), a federal country that has what is generally presumed to be an advanced healthcare system that will be able to withstand such an emergency. Analysts raised concerns about what they said were the inherent disadvantages of a federal political system against a pandemic that requires rapid and unitary response

The Larger Question of Pandemic Related Co-ordination

Before analyzing the center-state relations with respect to the Vaccination Policy, it is extremely important to look at the overall co-ordination between the two during the pandemic. This would help in understanding the larger picture.

First Wave: Between Central Unilateralism and State Autonomy: Constitutional provisions and existing legislations confer the primary responsibility for handling a situation like the COVID-19 pandemic, to the state government. Nonetheless, the Centre assumed the role of anchor and led from the front in managing the pandemic, particularly during the periods

involving national lockdowns (24 March – 31 May 2020). As the pandemic threatened human lives and livelihoods, demanding swift action on a national scale, the Centre took over the many responsibilities which otherwise fall within the domain of the state. Among many comprehensive measures, the Centre took a series of decisions to scale up vaccine procurement, knowledge production for setting standards and guidelines for the state and local governments, and mitigation of inter-state externalities.

For starters, the Centre took the unilateral decision on 24 March 2020 of announcing a national lockdown. While it consulted the state governments about the nature of the threat, the decision to impose a uniform nationwide lockdown with just four hours' notice was solely the Centre's. The Centre derived this power from the DM Act, 2005. Further, the Centre used other provisions of the DM Act to issue compulsory guidelines and instructions to the states in matters such as the length of the lockdown, restrictions, and containment zoning.

Moreover, the Centre's blanket decisions and stringent measures regarding lockdowns and containment zoning impeded the states' capacity to combat the spread of the virus. For instance, the states were not allowed to purchase medical kits on their own without the Centre's permission. This impacted the states' ability to mobilize and augment critical resources.

Eventually the Centre would give up the powers that it took on, after pressure built up from the states demanding more autonomy, and it became clear that centralized control was a roadblock to containing COVID-19.

Second Wave: Unilateral Decentralization: The first wave of the pandemic was about unilateralism and overtly centralized response by the Union. The opposite has been the case during the second wave. For one, the Centre during the first wave acted swiftly and decisively as federal governments ought to do during national emergencies. While many state governments imposed localized lockdowns and physical-distancing protocols, it was the Centre which announced a national lockdown, and issued real-time alerts and guidelines and protocols to state authorities to stem the virus spread. A proactive federal leadership was able to coordinate with states and other constituencies to quickly procure and produce medical equipment and PPE kits, and create emergency health infrastructure in record time. However, most of these Central initiatives were found wanting when the more infectious second wave began overwhelming states and the country's health systems.

Launching the nationwide federal response, the prime minister on April 20 addressed the nation and appealed for Covid-appropriate behavior; he also asked authorities to quickly ramp up responses. By then, however, the infections had rapidly spread across the country. This left states in a huge mix. This became visible when a number of state governments openly fought with each other over essential medicines and oxygen cylinders, some blocking others' supplies. The breakdown of inter-state coordination became so acute that the Supreme Court had to intervene to resolve the deadlock between the battling states.

The decentralization logic became more visible in the case of the vaccination policy. As the country faced acute vaccine shortages, many state governments called for autonomy to procure vaccines from international markets. The Centre acceded, as analysts found it impractical given the demand-supply mismatch and the cutthroat competition for vaccines. Several states which went ahead with tenders for procuring vaccines found no prospective bidders. This, along with differential pricing of vaccines created a chaotic situation and became a contentious aspect of India's federal structure as the Centre and the states blamed each other for the confusion. It required the intervention of the Supreme Court to end the Centre-state deadlock.

It is important to note that right from the beginning of the pandemic in 2020, the Central government had taken the sole responsibility of coordinating the entire process of vaccination in India; and rightly so. Like all federal governments, the Union government is undoubtedly endowed with greater resources and technical knowhow for approaching the international vaccine manufacturers, conducting trials, giving clearances, providing logistical and financial incentives to the manufacturers, and subsequently, procuring the vaccines.

Accordingly, the federal government steered the vaccination drive in 2020 when it facilitated two vaccines for use: Oxford AstraZeneca-made Covishield vaccine, being manufactured in India by the Serum Institute in Pune, and Covaxin, from the Indian company Bharat Biotech. As planned, the Centre procured the vaccines from the manufacturers and distributed them to the states for vaccinating, first, the frontline workers, and later the senior citizens, and eventually the population of 45 years and above.

The ensuing bitter blame game between the Centre and opposition-ruled states, finally ended after the former in early June reversed its decision to take control of the vaccination drive. While the Centre-state deadlock on vaccination was resolved, the country lost the initial advantage of procuring vaccines and ramping up the rollout—key to finally ending the pandemic.

What were the issues with state procurement?

The Centre's move to open up the vaccination program to the 18-plus age group, for which States had to procure vaccines on their own, as well as lifting of pricing and procurement curbs on vaccine manufacturers, had thrown a further spanner into the works. It was not clear, for instance how manufacturers were supposed to prioritize deliveries — Centre (lowest price), States (higher price), private sector (even higher price) or exports (highest realization).

It was also not clear how supplies will be allocated among States, who are all paying the same price — will it be on scale of order, which will favor populous States, or on time of order, which will favor more organized ones, or payment terms, which will favor the fiscally better off States?

Relevant Legal Instruments

Once it became clear that the COVID-19 pandemic was a devastating crisis that would have grave ramifications across the entire country, the Centre and the states faced a dilemma as to which provisions of the Constitution can be invoked to respond.

Constitutional Law

From a federal perspective, the Seventh Schedule of the Constitution which distributes the powers between different constituent units (Union and the States) gives states precedence over the Centre on health. Entry 81 of the Union List grants the legislative power for “inter-state migration; inter-state quarantine” to the Centre; meanwhile, Entries 1, 2 and 6 of the State List give the legislative field of “public order,” “police” and importantly “public health and sanitation; hospitals and dispensaries” to the states; and Entries 23 and 29 of the Concurrent List allocate the areas of “social security and social insurance; employment and unemployment” and “prevention of the extension from one state to another of infectious or contagious diseases or pests affecting men, animals or plants” to both the Centre and States.

The Constitution further states under Article 73 and 162 that the executive power of the Union and states is “coextensive with the legislative power”. Thus, from the constitutional scheme, the state governments are expected to play the primary role in the management of healthcare, as well as law and order, while the Centre is tasked to provide the overarching national leadership, facilitate coordination among key federating units, monitor the overall pandemic situation, and provide financial and other critical assistance to the states.

Disaster Management Act

The Centre declared the pandemic as a “notified disaster”, and cited the Disaster Management (DM) Act, 2005, in particular, to impose the nationwide lockdown on 24 March 2020. As the word “disaster” is not present in the Seventh Schedule, the Centre used its residuary powers to invoke the law and to issue various directives to the states as the pandemic situation aggravated.

Epidemic Diseases Act, 1897

The states, for their part, turned to the Epidemic Diseases Act, 1897, which empowers the states to deal with an epidemic-like situation. Many state governments used this law to issue State Epidemic Diseases COVID-19, 2020 regulations for their jurisdictions, including restrictions on movement and closure of commercial establishments, offices, and other public places. Various sections of the Indian Penal Code, 1860 were used by the states as a guide for laying down punishments for violators, much before the Centre started to issue its own guidelines.

Discussion Points/Important Questions to Consider

- A complete analysis of the present situation; background, problems, and the reasons behind those problems.
- Is there a need to modify center-state relations in order to better deal with similar future situations?
- Is there a need to modify/amend the relevant legal instruments in order to bring this change?
- The growing importance of co-operative federalism.
- Is there a need to prepare a model vaccination policy, which will ensure a uniform response to similar situations and act as a guide in the future?

- Fiscal and resource division between the Center and the States, with respect to public health.
- Practices of other federal countries
- Lessons for the future

Research Links:

<https://www.orfonline.org/research/the-covid-19-challenge-to-indian-federalism/>

<https://www.thehindubusinessline.com/opinion/columns/r-srinivasan/covid-and-the-collapse-of-federalism/article34544272.ece>

<https://pubmed.ncbi.nlm.nih.gov/32464666/>

<https://www.thehindu.com/opinion/lead/adverse-changes-federalism-imperilled/article34711388>.

<https://www.livemint.com/opinion/columns/covid-has-exploited-the-comorbidities-of-our-federalism-11621785929841.html>