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## **SECOND WAVE OF COVID-19: A FAILURE OF GOVERNMENT?**

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### **ABSTRACT**

India is fighting its battle against the coronavirus since last year and the battle is still on. It looks as if nothing has changed, although the cases of coronavirus decreased to around 14000 a few months back. But the scenario is at its worst in the second wave of Covid 19. People are begging for help amid a shortage of oxygen and the unavailability of beds in the hospital. One thing is constant unlike the rising number of covid cases and that is the blame-shifting by officials. They are living in denial that there is no shortage of oxygen or beds even it is evident that beds and oxygen are scarce. The expenditure on health by the government has always been extremely low and we are witnessing the results today. The people of this country has always relied on the private sector because of the unreliability of the government in need. Indians look forward to savings or personal networks when they need help and they are doing the same in this situation as well. Raising funds, asking for help from Facebook, friends or family is commonly seen nowadays. The private sector has always been a great source of help in this pandemic but the government authorities instead of supplementing can't even supply enough oxygen. But we need to pause for a second and analyse before shifting all the blame to the Indian Government that isn't the current situation our fault? In this article, we will be thoroughly analyzing that how we all are responsible for this current situation and how this second wave is a result of the inability of a human to resist his desires and how it elevated with the incompetence of the Indian Government to tackle this situation.

## INTRODUCTION

Education and healthcare are the founding pillars of human empowerment and certainly, these two basics are ignored by the Indian government for ages. No matter what government it is, the situation is no different. India's gross national expenditure on research and development has been stagnant at 0.7% of GDP in comparison to Israel (4.6%) South Korea (4.5%), Japan (3.2%), Germany (3%), the US (2.8%), France (2.2%), China (2.1%) and Brazil (1.3%)<sup>1</sup>. In healthcare, we should be researching through R&D rather than becoming a social factory of drugs in the world that are discovered by others. This is the reality of our nation that can't even provide enough oxygen to save lives. It is a matter of utter insensitivity that oxygen supply has become a subject matter of quotas in the pandemic. The government was ill-prepared in providing an adequate supply of vaccine and emergency measures were also not ready in advance. The preparation was a must thing to do when there was a continuous warning regarding the second wave of COVID, also it was evident as we had examples of other countries facing the second wave. In recent times, we've seen our government being ignorant and completely denying the current situations by allowing Kumbh Mela and not waiting for elections which lead to promotional activities like rallies in which a large number of people participated without fear due to which many people were tested positive for COVID but still we heard people in power saying that wearing the mask is not necessary. Election rallies couldn't wait, maybe the coronavirus can! Today the people who've been a victim of this pandemic continue to burn, hospital authorities are complaining about the non-availability of oxygen for their patients. What else will be needed to acknowledge the pandemic? People are having an eye on the cylinders of the dead for their family members who are still fighting in hospitals for life. Different states are struggling to fight against this situation, things are worst in states like Uttar Pradesh, not just in covid cases but in the way of handling the situation as well. The administration has warned people not to spread rumours and this includes people who are asking for oxygen cylinders on social media. People who are needy and are left with no other option than to ask for oxygen and the availability of beds in hospitals can be prosecuted under national security laws for spreading rumours against the failed system. In Delhi, the situation is no different. The government claim to be spending on healthcare and primary health centres which are indeed important, but that still couldn't make up to the

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<sup>1</sup>The New Indian Express, <https://www.newindianexpress.com/opinions/2021/apr/26/covid-crisis-in-our-nation-asaga-of-failures-2294835.html> (last visited - May 19, 2021)

actual needs of people. People struggled for getting a bed in hospitals. Just like the 1918-20 Spanish Flu, this second wave is more dangerous than the first one. According to experts, 80 to 85% of the population is asymptomatic. An asymptomatic person does not have any symptoms and hence they do not isolate and can transmit the disease even while talking to someone. The UK strain detected in a significant proportion during genome surveillance in Delhi and Punjab has shown a 50% higher transmission, according to the US Centers for Disease Control and Prevention (CDC). The L452R mutation found in the variant B1.671, first detected in India, too has been associated with increased infectivity<sup>2</sup>. On the contrary, we need to accept that the officials do not decide where we go and what we do in our daily lives, this is important to understand because people are shifting all the blame for the increased spread of the virus on government but they are failing to accept their part of the mistake. No politician told us to go for vacations, partying and holding a large gathering. It was us who let our desires rule over the caution and now we are blaming the government for failing to perform their duties. Its high time we accept that we also failed as a citizen to perform the duties to keep our environment safe and healthy.

### **ALL OF US ARE EQUALLY RESPONSIBLE**

India has over 3 lakh cases which were just in thousands a few months back. Something has surely gone wrong that there was a sudden need for oxygen, beds again and that too was not available. Before shifting all the blame on the government we need to think twice that what could have gone wrong that there was a sudden increase in the cases. It would not be a tough task to think about it and the answer will be clear as a crystal in front of us. It is we who have to lead to this disaster. This wave is our creation. The government was performing its duties by giving warnings and not opening places completely and it is their actual duty! They can issue guidelines, following them is our duty which we didn't perform well. There are a lot of influencers on social media who are criticizing the government for its incompetence but they were the same people who were flaunting their vacation pictures without wearing masks when situations were still improving. National Physical Conference was conducted amid a pandemic by the medical fraternity. There they didn't realize that it is going to be fatal and can again increase the infection? Many people are now concerned after watching the deadly scenario but a few months back they were the ones who behaved as if everything is okay and nothing

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<sup>2</sup>The Indian Express, <https://indianexpress.com/article/explained/explained-whats-changed-in-second-wave-7289002/> ( last visited - May 19, 2021)

can go wrong now. People in marketplaces were seen roaming without wearing masks or not following the social distancing. It was very irritating to watch such people who didn't care about anyone's life. They all were considering themselves immune. They were encouraged by vague articles which were not backed by science which read how Indians have a very high immunity and this virus cannot affect them much. This section of people believed in this theory hence they were heard saying things like this virus cannot harm us or this is just a rumour to end farmer's protest or it is some political agenda through which government will get some benefits. This second wave is an answer to those people who believed that this virus is synonymous with the common cold and Indians being exposed to it cant be affected much. It's high time that these people accept that we don't have any miraculous powers to beat the coronavirus. Yes, we can surely blame officials as they also were reckless while performing their duties. Conducting rallies was not a wise thing to do but let this thing sink in our minds that infection spread in those states as well where no rallies were conducted. Who will be blamed in those states? It is our fixed norm to rely on others for controlling our fate and then blaming others for it. Unless and until we do not accept our fault, we will repeat the same mistakes in future. We need to acknowledge our mistakes and should remain calm even when situations are calm because it is us on whom it is dependent that for how long this virus will remain silent.

### **WE DO NOT NEED FALSE POSITIVE STANDARDS**

“According to news reports, hours before announcing the national lockdown in the previous wave, Prime Minister Narendra Modi told owners and editors from India's largest media organisations that it was important to tackle the spread of pessimism, negativity, and rumour. This pressure to avoid negative news, and to offer reassurance, appears to have been felt by several professional scientific organisations in India. The Indian Council of Medical Research (ICMR) has been singled out by experts for straying from scientific evidence, appearing at worst politically motivated and at best overly optimistic. A letter from the Director-General of the ICMR, Balram Bhargava, said that the ICMR envisaged launching a coronavirus vaccine on Aug 15 (Indian Independence Day; a deadline considered unrealistic by most medical experts); ICMR has supported treatment with hydroxychloroquine despite insufficient evidence, and news reports claim that data on coronavirus infection was removed

from a scientific paper”<sup>3</sup>. This also has created a false optimism in minds of people that cases are decreasing. But the political leaders need to understand that the coronavirus does not leave people by seeing how much powers they have, so hiding the actual figures will not give any fruitful results and India will never get over the coronavirus as people in the pretext of optimism will get back to their normal lives but if the cases are hidden, it will again pop up and make similar situations and who knows even worst.

Positivity is an essential attribute in life and acknowledging success as well but being too optimistic in showcasing the actual numbers will only hinder vital public health initiatives. If not, then it will prevent the public to take precautionary measures. India is capable enough to lead the nation through this pandemic as we have expertise in medicine, public health but here the leaders need to understand and acknowledge the scientific evidence and do not spread false optimism.

### **CHANGES EXPERIENCED IN SECOND WAVE IN COMPARISON WITH THE FIRST WAVE**

People who are staying indoors are getting positive in this second wave of Coronavirus because of a large number of asymptomatic people mixed with more infectious variants. This combination is rapidly spreading than the previous wave. In the previous wave, the government was strict regarding the containment zones and were taking enough care of them but in this wave, the strictness is not as much as we experienced in the first one. The civil authorities are asked to go for micro containment zones which include only a floor or a house in which the spread of the virus can be rapid and proper monitoring will take place. Earlier there were huge containment zones in which the whole area was covered and converted to the isolated zones because of which there was a lesser chance of spread. Social events, gatherings, parties elevate the spread of the coronavirus if the proper rules are not followed. Social distancing, wearing masks were important in the previous wave, but in this wave staying at home and wearing double masks are important. As micro containment zones are not monitored carefully, entire families are getting affected by the virus. Apps like AAROGYA SETU are not giving effective results due to which contact tracing has become difficult and officials are unable to have the correct number of patients. In this wave, we are experiencing a long waiting period for testing due to which the isolation rules are not followed by asymptomatic people

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<sup>3</sup>THE LANCET ,[https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)32001-8/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)32001-8/fulltext) ( last visited - May 19,2021)

and they continue to spread the infection till the reports are given. There is no evidence to know that how long the immunity will remain in young people. In the previous wave, people who have reached a certain age have succumbed but in this wave young people are affected and the people who have comorbidities are at high risk. "Data released by the Centre shows that in seven age groups up to 70 years, the prevalence of deaths in this wave is comparable to the prevalence in the last wave. However, in the age groups 70-80 and above 80, mortality rates are higher in the second wave. It is still the older population that is at higher risk and needs to be protected. However, the number of deaths is high in all age groups because there are more cases. And with the virus becoming more infectious and some mutations escaping the immune response, the younger population needs to strictly follow Covid-appropriate behaviours"<sup>4</sup>.

“Even the two vaccines approved for emergency use in India don't stop transmission of the virus, and at present can only reduce severe disease or hospitalization. Data released by the government show that post-vaccination, around 2-4 persons per 10,000 have tested positive”.

### **MEDICAL NEGLIGENCE IN SECOND WAVE OF COVID**

Due to the increased burden on the doctors in the pandemic, medical negligence has emerged as a rising problem in India. Medical negligence includes the duty of care, breach of duty and as a result of that breach of duty, injury caused to any person.

“Under civil law, negligence is punishable under the law of torts or Consumer Protection Act, 1986. Under criminal law, if death is caused by "gross negligence" of the doctor, charges under Section 304A of the Indian Penal Code, 1860 can be framed. The Delhi High Court laid down three degrees of negligence: lata culpa (gross neglect); levis culpa (ordinary neglect) and levissima culpa (slight neglect)”<sup>5</sup>. Slight neglect being too trivial is not punishable and ordinary neglect, as the name suggests, is not something unusual, hence it also ought not to be punished. It is gross negligence that is punishable, however, the degree of negligence and remedy shall depend upon the facts and circumstances of each case.

There's a test called Bolam Test Of Medical Negligence which is introduced by the U.K and

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<sup>4</sup>The Indian Express,<https://indianexpress.com/article/explained/explained-whats-changed-in-second-wave-7289002/> ( last visited - May 19,2021)

<sup>5</sup>The Daily Guardian,<https://theguardian.com/medical-negligence-in-the-time-of-covid-19/> ( last visited- May 19,2021)

is adopted by Indian courts as well. This test helps decide cases of medical negligence. In *Bolam v. Friern Hospital Management Committee*<sup>6</sup>, it was decided that what is medical practice. According to Bolam's rule, the following things are to be considered while deciding the cases related to medical negligence :

1. It must be evident that there was a usual practice.
2. It must be evident that the defendant has not resorted to that practice
3. It must be proved that the doctor has followed the due procedure which no professional man would have followed if he would be acting with due care.

Thus to prove guilt or to prove innocence, one needs to comply with this rule. To safeguard the interest of medical practitioner, the Supreme Court of India said that to prove medical negligence, the wrong diagnosis cannot be ground and that practitioner need not be dragged into the criminal proceedings unless and until a higher degree of negligence is committed<sup>7</sup>.

In *Jacob Mathew v. State Of Punjab*<sup>8</sup>, the court held that a medical practitioner is judged on a different pedestal than a normal being. It is because they deal with different patients and they diagnose them in the best possible ways. This is the reason why to prosecute a medical practitioner, something more than negligence needs to prove. Sometimes the diagnose done by the doctor may not be very accurate but that does not mean that they are liable for medical negligence. A medical practitioner in cases of wrong diagnoses may be liable to pay damages but cannot be dragged into a criminal proceeding.

Medical Negligence in the COVID era has emerged as the decision of the government to involve the final year medical or nursing students in treating the patients or giving services to them was undoubtedly appreciated but as everything has two sides I.e. negative or positive, this decision also has some repercussions which arise due to the lack of experience of the trainees or final year students. It is expected from a trained medical practitioner that he knows a reasonable amount of work and possess a considerable amount of skills that will help them in diagnosing patients. There is no need of having extraordinary skills. But here the question arises that this same notion can be applied to the situation in which we are today? Because the

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<sup>6</sup>[1957] 1 WLR 583

<sup>7</sup>Live Law,<https://www.livelaw.in/top-stories/medical-professionals-criminal-negligence-152801?infinitescroll=1> ( last visited - May 19,2021)

<sup>8</sup>(2005) 6 SCC 1

virus has many variants and a lot of care and skills will be needed to handle a patient suffering from this infection. The due standard of care needs to be considered while deciding the cases of medical negligence in the COVID era. A human can make an error in its judgement and a medical practitioner is also a human being. If any death is caused due to the negligence of the doctor, then he should suffer penal damages but if there was an error of judgement on his behalf, he should not be punished for criminal trial because no one can work freely under pressure and fear, also it must be noticed that a medical practitioner does not gain any advantage behind negligence. The complainant must file for gross negligence before he is charged for medical negligence. Sadly, people consider doctors a criminal in this tough time. They must have suffered a loss due to the death of their loved ones but blaming doctors for their loss is not just.

## **CONCLUSION**

Coronavirus has not been kind to anybody. It does not attack people after analyzing what a person does or from where he belongs. It has affected all of us equally. It is really important to be kind, humble and grateful in this situation. People who are involved in tactics of looting people by taking advantage of their situations are a curse to humanity. On the same hand criticizing the government is important but to an extent where they are responsible. We as citizens should not blame the government for the mistakes which we've done. If we focus on a wider picture government is responsible for mismanagement but not the spread. It's high time that we stop this blame-shifting and acknowledge our mistakes so that we can find appropriate measures to fight against this pandemic. The government, doctors, people all are equally making efforts to fix this problem, this is not an appropriate situation where we are focusing on the mistakes and creating chaos. Everyone wants COVID to end and start a new beginning but the lessons which this pandemic has given to us are inevitable and it is up to us that we decide if these lessons were right.