

MEDICO-LEGAL ASPECTS OF COVID-19 DISEASE IN INDIA: A COMPREHENSIVE REVIEW.

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Abstract

In India, the first case of a COVID-19 patient was reported on 30th January 2020 by the Ministry of Health and Family Welfare in Kerala's Thrissur district. On 11th March 2020, the World Health Organization (WHO) director-general's briefed the media as an opening statement of the COVID-19 outbreak as a pandemic worldwide. In the literature data search, no article found which comprises the ethical and medico-legal aspects related to a COVID 19 pandemic situation. Therefore the purpose of to present review was to evaluate and review the Indian medico-legal aspects of Covid-19 disease. In the present review, different topics were covered such as the Epidemic Disease Act - 1897, the Disaster Management Act - 2005, the Biomedical Waste Management Act - 1998, the amendments to Epidemic Disease Act - 1998, Telemedicine and/or Teledentistry in the pandemic era in India, etc. The challenges of the COVID-19 pandemic are huge, but the basic principles of laws can keep healthcare personnel out of the medico-legal woods.

Keywords: COVID-19 disease, Disaster Management Act, Epidemic Disease Act, Medico-legal, Teledentistry.

Introduction

The several cases of pneumonia of unknown aetiology in Wuhan City in Hubei Province in central China which was reported by the China health authority on 31st December 2019 to the World Health Organization (WHO).¹ The first case in India was reported on 30th January 2020 by the Ministry of Health and Family Welfare in Kerala's Thrissur district in a student who had returned home for a vacation from Wuhan University in China.² On March 11th 2020 the WHO Director-General's briefed the media as an opening statement of the COVID-19 outbreak as a Pandemic Worldwide.³ There are 1, 57, 85, 641 cases has reported with COVID-19 infection worldwide out of which 6, 40, 016 deaths have recorded as of date 26th July 2020 by WHO.⁴ In India, the active cases are 485114 and 917568 cases have been recovered from the disease whereas 32771 deaths have recorded as of dated 27th July 2020.⁵ The legal system in India is based on the Government of India Act 1935 passed by the British Parliament. It follows a hierarchy of courts on the national level Supreme Court of India, on the state-level high court, tribunals or special courts, on the district-level district court, session court.⁶⁻⁸ The Epidemic Disease Act is the main legislative

framework at the central level for the prevention and spread of dangerous epidemic disease like the current situation on COVID-19.⁹ In a literature search, no article found which comprises ethical and medico-legal aspects related to a COVID 19 pandemic situation. Therefore the purpose of to present review was to evaluate and review the Indian medico-legal aspects of Covid-19 disease.

Methods:

In the present review, the literature search was done by the online search regarding the topic and objectives. The comprehensive literature search was conducted using different electronic databases like PubMed, MEDLINE, Embase, EBSCOhost, Web of Science, etc. and the articles published in the different journals were obtained. Also, a search engine such as Google was used to find the related articles. The keywords used for the computer-based search. Further articles were sought by manually searching reference lists of the relevant article publications. The articles which were published only in the English language had selected. The selection of all data done based on the objectives of the review. The review data consisted of

different original articles, reviews, textbooks, official government websites, etc. were documented. There was no patient involvement in the review.

Medico-legal aspects of covid-19 disease in India:

The epidemic disease act - 1897:

An Act to provide for the better prevention of the spread of Dangerous Epidemic Disease, COVID-19 disease comes under this act in India¹⁰, the first case was reported on 30th January 2020 by the Ministry of Health and Family Welfare.² The act provides to take special measures and prescribes regulation as to dangerous epidemic disease. The central and state may make special provision if required.¹⁰ In India, after applying the act, special powers will be given to the chief minister of state and home minister for laws and order, also lieutenant governor of union territories. At the districts level, special powers will be given to collectors, the superintendent of police, district magistrate, etc. for effective implementation of preventing measure. The penalty could be applied to any person disobeying the rule. Protection to a person under act no suit or other legal proceeding shall lie against any person for anything done.¹¹

The disaster management act - 2005:

An Act to provide for the effective management of disaster and matters connected therewith or incidental thereto, because of COVID-19 high infectious rate and community spread pandemic situation likes it has come into implementation in India. The power to issue directions by central government until and unless any law hasn't been enforced by the governing body of Government of India it shall be lawful for the central government to issue a direction to all the state and central governing bodies and they have facilitated or assist in disaster management so that these authorizes shall be bound to the direction. If any officer or employee of the central or state government or an authorized person obstructs in the discharge of his function under this act or that if that person refuses to comply with any direction given by the central or state government or an authorized person shall on conviction be punishable with imprisonment which may extend to one year or fine or both. If such action could cause loss of life or any imminent danger shall be imprisoned for a term extended to two years.¹² In cases of large community spread central or state government may make use of different facilities such as hospitals, hotels, school, community centres, and marriage halls etc. as the isolation and confinement centres under this act.¹³

The biomedical waste management act – 1998:

As per the act passed by the Ministry of Environment and Forest in 1986 and notified the Bio-Medical Waste rules in 1998, every occupier must dispose of it on 4 major criteria, segregating them on a colour-based coding system.¹⁴ General: green colour, infectious: infected plastic red colour and infected waste yellow colour, hazardous: glassware blue colour, radioactive: black colour.¹⁵ However, in the

current situation like COVID-19 infection, the disposal of biomedical waste materials like PPE, mouth mask, face shield, gloves, etc. are necessary to avoid any further transmission of the virus.

The amendment to the epidemic diseases act-1897:

The Central Government of India passed an ordinance making acts of violence and harassment against healthcare personnel fighting COVID-19 a punishable offence. The amendment to the Epidemic Diseases Act 1897, approved on April 22 stipulates a jail term of up to seven years and a fine of up to 5,00,000 rupees for violators. If the injuries are serious, the punishment will range from six months to seven years and carry a fine of 1,00,000 and 5,00,000 rupees. The amended law will also be invoked if healthcare workers face harassment from their landlords, the offence under amendment law will be cognizable as non-bailable.¹⁶ The first attack was reported in Indore, Madhya Pradesh in early April and similar cases were seen later in Gujarat, Karnataka and Uttar Pradesh.¹⁷

Telemedicine and/or teledentistry in pandemic era:

The practitioners of teledentistry should take care to ensure that patient privacy is not affected. Informed consent procedure in teledentistry should be as per guidelines. The patient should be informed of the inherent risk of improper diagnosis and /or treatment due to failure of technology involved in teledentistry practice, medico-legal and copyright issues also have to be considered. Currently, there is no method to ensure quality safety efficiency or effectiveness of information or its exchange.¹⁸

Discussion and recommendations:

The unprecedented scale of the ongoing COVID-19 pandemic has put healthcare systems across the globe to the test. The measures such as the setting up of field hospitals in China, the USA and Italy have been introduced to cope with the increasing patient load. The central government of India decided to promulgate an ordinance making attacks against healthcare professionals a non-bailable offence with a jail term of up to seven years, and stringent provisions to make the attacker pay damages to property. The union cabinet, at a meeting chaired by the prime minister of India, decided to amend the 123-year-old epidemic diseases act to insert provisions to take action against those attacking doctors and health care workers. Medical professionals are the precious national resource in these exceptional circumstances of pandemic and they should have a mind free of any stress of violence against them or litigations in future at least for the duration of the pandemic. The government needs to urgently look into this aspect and protect doctors not only from violence but also from suits or legal proceedings for the cause of actions arising during the period that the disaster management act remains notified.

Conclusion:

The challenges of the current pandemic are huge, but the above underlying principles can keep healthcare practitioners out of the medico-legal woods.

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