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Healthcare Policies and Judicial Regulations for Disposal of Unclaimed Dead Bodies: A Current Review

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Abstract

India leads the world in the number of registered medical institutions and produces the largest number of medical doctors in the world. Not with standing this, India struggles the concerns of cadaver shortage, patient unavailability (in hospitals), lack of medical equipment's/ instruments, shortage of medical personnel and medicines which is largely due to the malfunctioning of Indian Regulatory bodies and flawed Educational, Healthcare and Judiciary policies. Few authors have written on the prevailing deficiencies in the Indian policies especially the 'Anatomy Acts' but failed to correlate them with the 'Indian Judiciary Regulations' and provide radical solutions to ensure an uninterrupted supply of cadavers to medical institutions for academic and research purpose. The objective of our article is to review the policies and acts enacted by the Indian Educational, Healthcare and Judiciary policies pertaining to the disposal of unclaimed dead bodies both, prior to COVID-19 and during COVID -19 pandemic period.

Keywords: Unclaimed bodies; COVID-19 pandemic; Anatomy acts; Health care policies; Judiciary policies; Cadaver shortage; Medical education; Medical ethics; Regulatory bodies.

Introduction

India continues to produce largest number of doctors in the world. India witnessed an irrational and abrupt surge in medical institutions, in last decade. Cadaver shortage, patient unavailability (in hospitals), lack of medical equipment's/ instruments, shortage of medical staff and medicines are the key concerns in Indian medical institutions largely due to the Government's tendency to formulate educational, health-care and judicial policies based on public pressure, and short-term concerns. Out of these several issues, cadaver shortage in the medical institutions has become a common visual which hinders conventional medical education through cadaveric dissection and also restricts cadaver related research activities/workshops.

The COVID-19 pandemic, brought medical education system to a standstill and exposed the deficiencies in the infrastructure available in the Indian medical institutions. With the conventional classroom teaching-learning methods drastically shifting to online mode, 'Ministry of Health and Family Welfare', 'Ministry of Human Resource Development', 'Indian Judicial System' attempts to modify the policies of medical education, health care and judiciary.

Few authors have written on the prevailing deficiencies in the Indian policies especially the 'Anatomy Acts' but failed to correlate them with the 'Indian Judiciary Regulations' and provide radical solutions to ensure an uninterrupted supply of cadavers to medical institutions for academic and research purpose.

The objective of our article is to review the policies and acts enacted by the Indian Educational, Healthcare and Judiciary policies pertaining to

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the disposal of unclaimed dead bodies both, prior to COVID-19 and during COVID -19 pandemic period.

Medical education in India

The Medical Council of India (MCI) was established by 'Ministry of Health and Family Welfare' as a statutory body under the provisions of the Indian Medical Council Act (IMC Act), 1933, which was later, replaced by the Indian Medical Council Act (IMC), 1956 and was subsequently amended in 1964, 1993 and 2001.[1] By its powers, the establishment of a new medical college requires mandatory recognition by MCI, but during the inspection, MCI focuses only on documentation of infrastructure and human resources. There is no inspection of infrastructure proposed for research activities by the institution neither evaluation nor monitoring of student admission procedures, training, provision for cadaver supply, teaching-learning strategies, assessment system, student facilities and faculty adequacy, is conducted. (Establishment of Medical College Regulations, 1999: Amendment: July 2018).

Anatomy Acts of India

In India, the Bombay Anatomy act was enacted in 1949, underwent several amendments and later renamed as the Maharashtra Anatomy Act (Bombay Anatomy Act, 2018). Most other states followed by enacting their own Anatomy Acts based on the Bombay Act. The Maharashtra Anatomy Act,is the only act among all the states which allows the use of unclaimed bodies or the donated bodies for the purpose of both Anatomical examination (for medical education or research purposes) and for therapeutic purposes.[2]

Deficiencies in Anatomy Acts

A body of the deceased person who has no near relatives, or whose body has not been claimed by any of his near relatives in a given time period is defined as an unclaimed body.[3] All Anatomy Acts defined unclaimed bodies, but failed to clearly specify the time period during which a near relative may come forward to claim the body. They also failed to specify the method of preservation of the body during this time period.[4] Bharambe et al. (2019) reviewed various anatomy acts and stated that the authenticity of the claimant needs to be established by legally competent authority. Many Anatomy Acts failed to cover voluntary body donation which is a very important source of obtaining cadavers hence various acts need amendment to cover voluntary body donation. In addition to it, ambiguity existed in all the Anatomy Acts about exact meaning of terms such as "Approved Institution" and "Authorized officer".

Delhi and Kerala Anatomy Acts also offer the right to claim a body to the friends and religious bodies but failed to define the parameters of the friend/religious organization who may also claim the body. Most of the existing anatomy acts fail to address the issue of transfer of unclaimed dead bodies from one Institute, to other teaching Institutes and the legalities involved in such a transfer. This is an important issue taking into consideration the grave shortage of cadavers for dissection in medical institutions of India.[4]

Methods of disposal of unclaimed bodies

The Criminal Procedure Code, 1898 and 1973

The police officer in case of doubt as to the cause of death of the deceased and in any other case in his opinion it is expedient so to do,dispose of the unclaimed dead body in the manner as provided in Section 104[5] (Section 5(3)(a)) but after the repealing of this Act of 1898,by the new Act of 1973,[6] the, procedure should beas per Section 174.[7] Rules must clearly mention about disposal of dead body in the scenario in which unclaimed dead body is not required by the authority in charge of a medical institution for anatomical examination or dissection. Rules must also mention about the period after which the medical, institution for prolonged preservation and use for anatomical examination and dissection may use the unclaimed dead body. Preferably this period should be within 72 hours after the death in ordinary case.

Police regulations, Paragraph 135-A

As per the regulations, there is a provision of providing unclaimed human dead bodies to recognized medical institutions which is as follows:

a. If the police receives a dead human body, which remains unclaimed and unidentified, then according to Section 174, investigating police officer shall arrange to give the fact of discovery the widest possible publicity with a view to its identification as also to the tracing out of the deceased's relations, friends or acquaintances to whom it can be handed over

for disposal. In rural areas such publicity shall be made by beat of drum and in urban areas the police officer may also take the help of the local press, broadcasting station, if any, and voluntary organizations like the Sewa Samiti.[8]

b. The police officer making the enquiry shall also as far as possible' endeavours to ascertain correctly the faith to which the deceased belong in order to ensure proper disposal, if eventually necessary, of the corpse according to the customary rites of the faith to which the deceased belonged. With this end in view the officer concerned shall, besides .making other enquiries, carefully examine the corpse to see if it has got any distinguishing features, such as might held to establish the deceased, denomination and make an entry to this effect in the general diary and the inquest report.[8]

c. If after due publicity a dead body remains unclaimed the Superintendent of Police of the district may hand it over to recognized Medical College for the purposes of anatomical examination and dissection at their own expense. The officer-in- charge of such college shall furnish to the Superintendent of Police a certificate to the effect that after anatomical examination and dissection the corpse was disposed of according to the customary rites of the faith to which the deceased belonged.[8]

In cases,where there is need for conducting post-mortem

It is generally difficult for the police to maintain the unclaimed body in a good condition till the deceased is identified or the relatives/friends of the deceased are found. Hence, the police is directed to hand over the body to the Anatomy department of local recognised medical institution through proper channel for preservation in cold storage for minimum of 15 days to facilitate the effective police enquiry to identify the claimant of the deceased. If during this period, the claimant of the deceased is identified,then police will contact the medical institution and will hand over the dead body to the concerned relatives; and in case, if the claimant of the dead body is not identified then the investigating police officer with due permission of the police superintendent will permanently hand over the unclaimed body to the Anatomy department of recognised medical institution with the condition that the responsibility of disposal of the deceased according to the customary rites of the faith will rest on the medical institution.

In cases, where there is no need for conducting post-mortem

In bodies, where conducting post-mortem is compulsory, it is difficult to keep such dead bodies in a good condition for a long time, in such cases, a written certificate is supposed is acquired from the Anatomy department of local recognised medical institution stating the duration till which the dead body can be preserved in good condition so that during that period the police enquiry for identifying the relatives, friends and acquittances of the deceased can be conducted. If in case, no claimant for the dead body is identified then the investigating police officer after acquiring proper permission from the superintendent pf police will permanently hand over the unclaimed body to the anatomy department of local recognised medical institution with the condition that the responsibility of disposal of the deceased according to the customary rites of the faith will rest on the medical institution.[8]

Policies for disposal of unclaimed bodies in other states

In Punjab, police rule state that if a body is unidentified, the investigating officer shall record a careful description of it, giving all marks, peculiarities, deformities, other distinctive features and shall take the finger impressions and have it photographed. In cases where such action appears desirable, a description should be published in the Criminal Intelligence Gazette. Unidentified body should be handed over to any charitable society which is willing to accept them, and if no such society comes forward, they should then be buried or burnt. The investigating officer is empowered by law to waive off the post-mortem in case he thinks that there is no foul play and death is due to natural cause.[9]

In Delhi, the police sends telegram message called "Hue and cry notice' to various police headquarters of the country. The "Hue and cry notice' contained brief description of the identification features of the deceased. The body is preserved in the mortuary for 72 hours from the time telegram message is sent. If there is no one to claim the body after 72 hours the police is legally authorized to dispose of the body. But if the police think that the body may be identified by the relatives, it should be preserved for longer time till relatives comes and claims the body. The expenditure on the disposal of body in unidentified case are born by the police department. This is applicable in medicolegal cases expired outside hospital or inside the hospital. In Delhi, the

Assistant commissioner of police is authorized to waive off the post-mortem on the recommendation of the investigating officer. However autopsy surgeon can recommend investigating officer for waiving off the case if he think it is a case of natural death, but the final authority rests with the Assistant commissioner of police.[9]

Disposal of unclaimed bodies in hospital

In case of unclaimed bodies in hospital, died due to the natural cause, the hospital authority is lawfully in charge of the body. The hospital authority will send telegram messages to whatever address is available. If the body is unclaimed after 72 hours, it is legally authorized to dispose of the body bearing it's expenditure. As per human transplant act 1994, the hospital authority is authorized to give permission for removal of any human organ from the unclaimed body after 48 hours. However if the hospital has reason to believe that some near relative might object, the permission to remove the organ must not be given. The unclaimed M.L.C. bodies in hospital should be handed over to the police who shall dispose of the body after post-mortem.[9]

Guidelines for disposal of unclaimed bodies of COVID-19 patients

In the exigency of death of COVID-19 patients, the concerned hospital will prepare the dead body by following the protocol of disposal of dead body as per the guidelines. (Government of India, 2020). A separate area should be earmarked in every isolation centre for this activity.[10]

a. In case of Government Medical Colleges, the doctor on duty will inform the forensic doctor who will call on duty mortuary workers in the hospital to receive the wrapped and disinfected dead body and will shift it on a disinfected shifting trolley for loading on the closed vehicle and shift to the mortuary. Mortuary workers to be given safety equipment's as per the protocol. The hospital will inform the district administration about such deaths along with all the details.[10]
b. In case of isolation centres other than medical colleges, the hospital authorities will move the sealed disinfected dead body to the mortuary of the hospital. In case mortuary is not a part of the isolation facility, the mortuary will be identified by the Health Authorities and the dead body will be moved to that mortuary. [10]

The medical facility as soon as possible will inform the Deputy Commissioner about any such death. This information must be given to both the Deputy Commissioner of the district where such a facility is located and the Deputy Commissioner of the district to which the person belonged (if the two are different).[10]

Dead body from the mortuary will be shifted to cremation ground where the last rites of the body are to be done in a vehicle which shall be arranged by the concerned district administration where the last rites are to be performed. The local Municipal Committee/Panchayat will make arrangements for cremation.[10]

Policies for disposal of unclaimed dead bodies of COVID-19 patients

Depending on the following situations, further necessary action shall be taken by local district administration:

When relatives are there and ready for doing the last rites, the district administration should provide them all the help required. Dead body disposal protocol has to be followed.

When relatives are there but not willing to carry out the last rites,district administration should carry out the last rites in the presence of the relatives as per the protocol.

When the body remains unclaimed for 48 hours after the information is provided to the relatives about the death, the body should be declared unclaimed under Epidemic Control Act, 1897 and the district administration should carry out the last rites as per the religious belief known to the district administration as per protocol. All the expenses on transportation of the dead body, required manpower and expenses of such a funeral will be a valid charge on National Disaster Mitigate Fund (NDMF).[10]

As per the guidelines, embalming of such dead bodies should not be allowed (Government of India, 2020). Similarly, autopsy may be avoided and in case if it is to be performed for special reasons, the recommended infection prevention and control practices should be followed (Government of India, 2020).

Conclusions

a. Anatomy Acts of different states of India warrants urgent reanalysis and reformulation

after considering the suggestions and rectification of all the existing deficiencies.

b. Centralization of all Anatomy Acts in India should be contemplated to ensure its uniform enactment in all Indian states diverse in religion, caste, and culture.

c. Significant a synchronization exists in the functioning of Healthcare and Judicial system, due to disparity in their respective policies, which can be resurrected by designing a Board/ Panel of members comprising of Healthcare, Education and Judicial system authorities with a goal to govern the disposal of unclaimed bodies and voluntary body donation activities.

d. Deficiencies in the Infrastructure provided to the medical institutions and police stations should be rectified like constructing mortuaries in government hospitals and medical institutions, providing cold storage facility at police stations and medical institutions, conducting regular training of medical officers in post-mortem techniques, etc.

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