

Medicolegal Aspects Of HIV/AIDS

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Abstract –

HIV is a lentivirus that causes AIDS. HIV/AIDS is 4th leading cause of death worldwide. It differs from other Immune deficiency states in that it is transmissible. In the field of HIV/AIDS role of laws and ethics is very crucial. HIV testing has brought out a number of legal & ethical issues as it is a medical as well as social problem. Also there is no complete cure and no vaccine is available so far. There are many legal-ethical issues involved in a public health strategy to combat HIV. Health care professionals are in a unique situation, as both legal and ethical rules apply to a single HIV-related situation faced by them. But people even Medical professionals are unaware about medico legal aspects of HIV/AIDS.

This paper aims to increase the awareness of medico-legal aspects of HIV/AIDS.

Keywords– HIV, AIDS, Medical aspects, Legal aspects.

Introduction –

HIV is a lentivirus that causes AIDS (Acquired Immuno-deficiency Syndrome). AIDS was first recognized in United States in summer of 1981. In 1983, Human Deficiency Virus (HIV) was isolated from the patient with lymphadenopathy and by 1984; it was documented clearly to be causative agent of AIDS. Since the first report of HIV infection in India in 1986, the virus has spread all over the country although there is geographic variation. Since 1981, as incidence & awareness on AIDS increased among the public, the ethical & legal aspects are becoming more significant. There is much of the controversy about AIDS and their victim involves the legal rights. Young women, men who have sex with men, and injecting drug users are particularly vulnerable to infection with HIV.

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Prevalence Of AIDS -

- In a survey in USA, 93% of the reported cases of AIDS have been in males with a age range from 20 to 64.
- It is highly fatal disease with a mortality rate of about 90%; two years after the onset of clinical illness.
- 4th leading cause of death worldwide.

HIV Testing –

HIV testing has brought out a number of legal, ethical, moral and psychological issues as it is a medical as well as social problem. An understanding about the sequence of events that that follow the entry of virus into the body will help to understand the optimal usage of various HIV tests during different stages of the disease. The period following the entry of HIV into the body and the appearance of detectable level levels of antibodies is called “window period”. During this period, individual is infected, infectious and non reactive with antibody detection tests. Another important point to understand is that lab diagnosis is the only method determining the HIV infection status of an individual during the long asymptomatic period.

Informed consent for HIV testing implies that the client gives deliberate and autonomous

permission to the health care provider to proceed with the proposed HIV test procedure. This permission is based upon an adequate understanding of the advantages, risks, potential consequences and implications of an HIV test result.

Surveillance of the HIV positive cases in the country does not require reporting of the identification data of the patient. Purpose of HIV surveillance is to measure the level and trends of HIV infection in a given geographical area over a period of time.

Strategy For HIV Testing –

1) Unlinked Anonymous Testing –

Such type of testing is not directed to the individual, but towards the public health surveillance of HIV infection. It is an epidemiological method for measuring HIV prevalence in a selected population with the minimum participation bias. This type of testing involves use of blood already collected for other purposes. Therefore, the effect of selection bias may remain and will depend upon time, location and other details of blood collection.

2) Voluntary Confidential Testing –

This method is based on voluntary testing for diagnosis of HIV cases. Therefore, it is imperative to respect the individual's need to maintain confidentiality.

3) Mandatory Testing –

When testing is done without the consent of the patient and data could be linked to identify the person, it is called "mandatory testing". Such testing is recommended only for screening donors of blood, semen, organs or tissues in order to prevent transmission of HIV to recipient of the biological products.

False Positive And False Negative Results –

There are some conditions other than HIV infection which may give a reactive HIV result i.e. false positive results e.g. auto-immune diseases, multiple pregnancies, multiple transfusions, chronic alcoholics, patients with Hepatitis, Hepatitis B immunization or technical error, etc. Also, sometimes the result may be negative even in HIV infected individual i.e. false negative result e.g. infected but not yet seroconverted (window period),

late stage disease (immune collapse) or technical error, etc.

Pre- And Post- Test Counselling –

Counselling is very important and is considered as face to face communication. It helps people to understand themselves better in terms of their own needs, rights, limitations and the resources they can avail of.

In case of individuals diagnosed as HIV negative, caution needs to be exercised as following exposure to HIV, there is a 'window period' during which negative result cannot be considered reliable. Three months must have elapsed from possible exposure before a negative test result can be considered to mean that there is no infection. A negative test result becomes greatest certainty if six months have lapsed after last exposure.

Individuals diagnosed as HIV positive, need to be told about their result privately and in confidence. Single test giving positive result does not necessarily mean HIV infection. To establish HIV infection, three tests for antibodies based on different antigen methods are to be taken into consideration. Time should be allowed for a client to absorb the news. For providing support and encouraging hope for achievable solutions to personal and practical problems, the client should be given clear and factual explanation.

In case of females at child bearing age who are found to be HIV positive, they should be advocated to avoid pregnancy as there is a one-third chance of having an infected child. However, the woman's right to bear a child cannot be straightway denied. Hence a detailed discussion may be necessary. Regarding termination of pregnancy, counselling depends on the personal, religious and cultural factors. Such infants should be kept under medical observation and treated with care and affection. Partners and siblings need to be counselled. Though the risk of acquiring infection from infant's body fluid is minimal, the people with cuts should avoid contact with fluid. As per the breast feeding is concerned, it may result in transmission of HIV from mother to child. In developing countries, withholding breast feeding may deprive the newborn of the protective immunity transferred from mother to newborn. Therefore,

counselling to analyze and find a balance between the two i.e. the possibility of HIV infection to the newborn through breast feeding and the lack of transference of nutrition plus antibodies to the newborn in the event of absence of breast feeding.

AIDS And Law –

- The existing AIDS law in India consists of State Amendments and a proposed Central Bill.
- In India, it is fundamental right of HIV positive individual to have access to adequate treatment provided by government.
- A writ of habeas corpus can be filled in the High Court or in the Supreme Court if a person is unjustly or illegally isolated alleging him to be HIV positive.
- A civil suit under the law of tort may be filled to claim compensation for violation of fundamental right to personal liberty.
- Action against Blood Bank can be initiated supplying infected blood to a person resulting in death of that person due to HIV infection. (304 A IPC)
- In August 1989 a bill was proposed in the Parliament called the AIDS (prevention) Bill.
 - Section 4 of the said bill mandates every registered physician to report each case of HIV positive patient to health authorities, but does not provide a confidentiality clause.
 - Section 7, requires health authorities to undertake counseling, health education & specialized treatment.
 - Section 5, talks of precautionary measures to curb the spread of disease.
 - Section 5(c), suggests removing the patient to a hospital or such other place 'for special care', all the direction of health authority.
- A legal action can be initiated against a person who is infected with HIV if;
 - A person unlawfully or negligently do the act to spread infection of disease dangerous to life (IPC 269)
 - A person willfully or malignantly does the act to spread infection of disease dangerous to life (IPC 270)

AIDS & Medical Practice

- It is unethical on part of Doctor to refuse treatment or investigation to a person infected to HIV.
- A Doctor may be held guilty for professional misconduct for this unethical behavior.
- The result of the HIV test must be kept confidential. Confidentiality of Doctor –Patient encounters is a basic medical ethic. Patient has the right to confidentiality. The physician should not reveal confidential communications or information, without consent of a patient. Civil and criminal penalties may ensue for unlawful disclosure of HIV positive status.
- Physician may tell health professionals if a patient has tested positive for HIV. But even health care workers who are not directly involved in the care of the patients should not be told about the result.
- Physician may inform spouse, sexual partner or needle sharing partner.
- Informed consent for HIV testing must be taken.
- Surgery may create an increased risk of transmission of HIV from doctor to patient.

Health Care Workers & HIV Infection –

- Health care professionals are in a unique situation, as both legal and ethical rules apply to a single HIV-related situation faced by them. But people even Medical professionals are unaware about medico legal aspects of HIV/AIDS.
- Although there has been no documented case of a health care worker infecting a patient with the virus or of an HIV positive co-worker infecting another co-worker, the risk is ever present. Hence health care workers who are known to have antibodies to the virus might be advised to refrain from participating in certain traditionally haemorrhagic surgical procedures.
- There is no generally accepted medical evidence that HIV can be transmitted through normal day to day contact in typical private workplace settings.
- With the exception of health care workers and personal service workers who use instruments that pierce the skin, no testing or restriction is indicated for workers known to be infected with HIV but otherwise able to perform their work.

AIDS & Autopsy –

- Data are lacking regarding the risk of HIV transmission from Mortuary.
- Viable HIV could be isolated from blood at autopsy up to 21 hours after patient's death & viable HIV was isolated up to 14 days from spleen specimen.
- HIV antibodies had been detected from postmortem vitreous humor specimen up to 34 hours.
- So forensic persons working in mortuary are considered to be at high risk owing to the fact that HIV has been isolated from blood & body fluid.
- To prevent transmission it was suggested that patients should be screened before doing autopsy.
- However it is not possible to screen each & every individual for HIV in mortuary setup due to various factors.
- Therefore “Universal Precautions” should be adopted for every case.

Universal Precautions –

- HIV has been isolated from number of body fluids and tissues. Therefore, all persons performing or assisting autopsies may have contact with blood, semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid and tissues should follow universal precautions to prevent themselves from contacting the infection. There are now several well documented cases of HIV infection occurring in health care workers who had been exposed to HIV infected blood.
- Protecting clothing. (The staff members transporting the body to mortuary should wear protective clothing)
- AIDS suit. (During autopsy, the persons should wear AIDS suit which comprises of disposable type of scrub suit, a plastic apron, double rubber gloves, cap, face-mask, goggles and shoe-covering)
- Sharp weapons cut should be avoided. Production of aerosol of biological material during sawing of bone etc. may pose special

problem. A vacuum dust exhaust and filter should be used.

- Autopsy samples & specimens required for further analysis should be collected in leak proof containers.
- After completion of autopsy, the body should be wrapped in polythene sheet.
- While handling over the body to the relatives, proper instructions should be given.
- Disposable & used sharp instruments like scalpel blades etc. should be placed in puncture proof container.
- Usable instruments should be placed in 2% glutaraldehyde solution for 4 hours & then washed with clean water & autoclaved before using them again.
- The biological material left should be disposed as per the guidelines issued by Hospital Waste Management & Bio-medical Waste (management & handling) rules.
- Autopsy table, wall & floor should be disinfected with sodium hypochlorite solution.

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