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ETHICAL CHALLENGES IN HEALTHCARE ARISING FROM THE COVID-19 PANDEMIC

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Abstract

The COVID-19 pandemic has, till the end of September 2020, infected more than 34 million people the world over, and more than one million have died. The ethical challenges it has raised are many. This article highlights some of the main ethical challenges in healthcare. It argues that the pandemic could have been avoided, or, at best, very much reduced, if the problem had been nipped in the bud, and due warnings were sounded to other countries; the role of China and the WHO are particularly highlighted. Denial of the problem, and inaction by some prominent world leaders who placed politics and economics before health, has resulted in their countries being most affected by the pandemic. The article also discusses some of the other ethical concerns in healthcare that have arisen: the problems of triage; the effect on non-COVID related medical care; problems of honouring the requirements of informed consent, CPR, DNR Orders, etc.; the sad plight of healthcare and other frontline workers; the issue of citizens' privacy and rights; the ethics of human challenge studies, and problems in developing and distributing a safe and effective vaccine. The important values of human dignity, human rights, privacy, equity, and justice are to be upheld at all times as we make our way out of this crisis. A close collaboration between all the principal actors as well as the citizens of the world is necessary to help end the pandemic and to return to normalcy.

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Introduction

It is more than six months now since the World Health Organization declared, on March 11, 2020, that the global spread of the novel coronavirus disease, COVID-19, was a pandemic. At the time of this writing, more than 34 million people have been infected the world over, and more than one million have died.[1] There is a complete breakdown of all sectors of life and normal life as we knew it has been severely disrupted. The problems that the pandemic has raised, and the ethical challenges it has brought in its wake, are many. In this article we shall highlight some of the main ethical challenges in healthcare that the pandemic has raised for us.

1. Failure to Contain the Pandemic in its Initial Stages

Undoubtedly, the current COVID-19 pandemic is the worst health crisis of the last one century that has affected millions of people the world over. Could this crisis have been avoided, or, at best, very much reduced? The general consensus is that it most certainly could have. Ethical concerns have been raised concerning the inaction of some prominent players, leading to the present crisis.

1.1. Lack of Timely Warning and Action by China to Control the Disease at the Outset

First off the list is the questionable role of China, where the virus originated, and from where it spread to the rest of the world.

As we are now aware, the first cases of the novel coronavirus were detected by local hospitals in Wuhan, China, in December 2019, with evidence that human-to-human transmission had occurred among close contacts.[2] However, the health authorities at Wuhan kept the information hidden from their higher-ups for as long as possible in order to avoid upsetting them, as well as to avoid public panic.[3] Eight doctors from Wuhan Central Hospital who tried to alert the people, including Dr Li Wenliang, who later died, were portrayed on TV as

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[1] *Worldometer*, "COVID-19 Coronavirus Pandemic," https://www.worldometers.info/coronavirus/; accessed September 30, 2020.

[2] Qun Li *et al*, "Early Transmission Dynamics in Wuhan, China, of Novel Coronavirus–Infected Pneumonia," *The New England Journal of Medicine* 382, 13 (March 26, 2020) 1199-1207, 1199.

[3] Dali L. Yang, "Wuhan Officials Tried to Cover up COVID-19 and set it Careening outward," *The Washington Post*, March 10, 2020.

'rumor-mongers' and were silenced. Further, the authorities at Wuhan thwarted the efforts of two teams sent by China's National Health Commission in Beijing from gathering information as to whether the virus could spread through human infection, and on 11 January 2020, they announced that there were no new cases. All this led to a false sense of security among the people and medical staff, and eventually led to a steep rise in infections.[4] By January 7, China's top leadership, including President Xi, were aware of the outbreak of the virus, yet they neither warned the people nor took any appropriate measures until much later (January 23), [5] while deliberately lying and providing false assurances to its citizens.[6]

One of the health experts, Xu Jianguo, told a Hong Kong paper on January 6, "China has many years of disease control, there's absolutely no chance that this will spread widely because of [the upcoming] Spring Festival travel," adding that there was "no evidence of human-to-human transmission." This claim was not true![7] Not only the citizens of Wuhan, but the people outside Wuhan too were already infected. The virus even travelled outside China, the first case outside China being reported in Thailand on January 13.[8] A study published in *The Lancet* on January 24 revealed that more than a third of the patients had no connection with the Wuhan food market, including the first [index] case—a person who had become ill on December 1, nearly two weeks earlier than what the Wuhan health authorities had said was the first case.[9] Despite this, China did not ban travel within and outside the country. When the ban was officially announced in Wuhan on 23 January 2020, approximately 5 million people had already left Wuhan, and millions were travelling in and out of the country, contributing to the spread of the disease.[10]

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[4] Raj Verma, "China's Diplomacy and Changing the COVID-19 Narrative," *International Journal: Canada's Journal of Global Policy Analysis* (June 8, 2020) 248-258, 250.

[5]Yang, "Wuhan officials tried to cover up COVID-19," 250; See Editorial Team, "China didn't Warn Public of Likely Pandemic for 6 Key Days," *The Associated Press*, April 15, 2020.

[6]James Kraska, "China is Legally Responsible for COVID-19 Damage and Claims could be in the Trillions," *War on the Rocks*, March 23, 2020.

[7]AP Editorial Team, "China didn't Warn Public of Likely Pandemic for 6 Key Days."

[8]AP Editorial Team, "China didn't Warn Public of Likely Pandemic for 6 Key Days."

[9]Alex Ward, "World Leaders who Denied the Coronavirus's Danger Made us all Less Safe," *Vox*, March 30, 2020.

[10]Verma, "China's Diplomacy and Changing the COVID-19 Narrative," 250.

By this time, more than 3,000 people from Wuhan and the rest of the country were discovered to have been infected.[11]

Not only were the Chinese authorities actively trying to suppress information about the impending outbreak from their own citizens, but also from global public health experts, [12] particularly the World Health Organization, whose duty it is precisely to deal with such health situations and to devise strategies to contain an epidemic.[13]

As James Kraska notes, although China did not intentionally create a global pandemic, it acted with malfeasance by not reporting it and by not taking appropriate measures, thus leading to a global contagion with mounting material consequences. China, he adds, had a moral and a legal duty to provide open and transparent information to WHO and to other countries under international law, but failed in this important duty.[14] A University of Southampton study found that had China intervened "one week, two weeks, or three weeks earlier, cases could have been reduced by 66 percent, 86 percent and 95 percent respectively – significantly limiting the geographical spread of the disease."[15]

There appear to be three reasons why the Chinese authorities kept the problem under wraps: one was that since China is an authoritarian state, the local authorities as well as the people of Wuhan were afraid to speak for fear of reprisals.[16] The second reason was because of the upcoming important annual Chinese Lunar New Year (Spring Festival), which this year was from January 24 till February 8.[17] The third reason was to uphold China's, especially President Li's, global perception as a great power and world leader—a perception that might be seriously dented by a pandemic.[18] This raises serious ethical questions: can we sacrifice public health and its

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[11]AP Editorial Team, "China didn't Warn Public of Likely Pandemic for 6 Key Days."

[12]Ward, "World Leaders who Denied the Coronavirus's Danger Made us all Less Safe."

[13]Kraska, "China is Legally Responsible for COVID-19 Damage."

[14]Kraska, "China is Legally Responsible for COVID-19 Damage."

[15] Dr. Shengjie Lai, "Early and Combined Interventions Crucial in Tackling COVID-19 Spread in China," *University of Southampton*, March 11, 2020. https://www.southampton.ac.uk/news/2020/03/COVID-19-china.page.

[16] Zeynep Tufekci, "How the Coronavirus Revealed Authoritarianism's Fatal Flaw," *The Atlantic*, February 22, 2020.

[17]Kraska, "China is Legally Responsible for COVID-19 Damage."; See "Chinese New Year Calendar, 2020." https://chinesenewyear.net/calendar/.

[18]Verma, "China's Diplomacy and Changing the COVID-19 Narrative," 254-256.

subsequent consequences for others by not taking suitable action in such a grave matter out of fear of authority, or due to our insistence on the celebration of our cultural and religious festivals, or to save one's public image?

1.2. The Questionable Role of the World Health Organization in Handling the Pandemic

Observers have also criticized the World Health Organization (WHO), particularly its present director-general, Tedros Adhanom Ghebreyesus, a man hand-picked by China, [19] not only for underplaying the global threat posed by the virus, but also for protecting China from blame.[20]

The WHO was alerted in late December that a new disease had appeared in the Chinese city of Wuhan, but there are accusations that it continued to repeat Beijing's assurances that there was nothing much to worry about, and of falsely reassuring the world that there was as yet no evidence of human-to-human transmission.[21] However, to be fair, in its tweet of January 21, the WHO had said, "It is now very clear from the latest information that there is at least some human-to-human transmission of #nCoV2019. Infections among health care workers strengthen the evidence for this." In his statement on 23 January, 2020, Tedros thanked "the Government of the People's Republic of China for its cooperation and transparency" and said that "China has taken measures it believes appropriate to contain the spread of coronavirus in Wuhan and other cities...For the moment, WHO does not recommend any broader restrictions on travel or trade."[22] As Mohammad Ayoob points out, at a time when infections and deaths were multiplying, and when it was the duty of the WHO to warn the global community of dangers of unrestricted travel to and from China, WHO's statement clearly implied that it was safe to travel to and from China, thus endangering hundreds of thousands of lives the world over.[23] WHO's own timeline shows that by January 24, it was aware that some citizens of Thailand, Japan, the

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[19] Lawrence Freedman, "How the World Health Organization's Failure to Challenge China over Coronavirus Cost us Dearly," *New Statesman*, 5 April, 2020.

[20] Mohammad Ayoob, "Is China Culpable for the Spread of Coronavirus?" *The Strategist*, 31 March, 2020.

[21] Freedman, "How the World Health Organization's Failure to Challenge China."

[22] "WHO Director-General's statement on the advice of the IHR Emergency Committee on Novel Coronavirus," *World Health Organization*, 23 January, 2020. https://www.who.int/dg/speeches/detail/who-director-general-s-statement-on-the-advice-of-the-ihr-emergency-committee-on-novel-coronavirus.

[23] Ayoob, "Is China culpable for the spread of coronavirus?"

US, and France who had travelled to Wuhan had been infected,[24] meaning that it was spreading globally. It was only on March 11 that WHO finally declared the novel coronavirus COVID-19 as a pandemic.

The World health Organization is considered to play an essential role in the global governance of health and disease, and to prepare the world to handle a pandemic of this nature; yet, it failed the world when the crucial moment came, especially because of its close association with China at present.[25] Taro Aso, the deputy prime minister of Japan, remarked in frustration that the WHO should be renamed as "Chinese Health Organization," adding, "Early on, if the WHO had not insisted to the world that China had no pneumonia epidemic, then everybody would have taken precautions."[26] Jaya Harrar observes that the WHO, alongside with governments across the world, could have played a more central role in the detection and avoidance of a COVID-19 pandemic in the critical window of January 2020.[27]

2. Leaders of the Worst-affected Countries: Placing Politics and Economics Before Health?

As we have seen, China, the most populous country in the world, had contributed greatly to the rapid spread of the pandemic. Some other significant world leaders were not far behind though; they too were responsible for the spread of COVID-19 by downplaying the issue for weeks and even months, acting irresponsibly, and often choosing political and economic compulsions over public health and safety.[28] Some of the reasons for the denials and for the mishandling of the pandemic appear to be: concerns about harming the leader's personal or the nation's public image; compromising one's chances of re-election; fear of harming the economy; the belief that an outbreak won't really be as bad as it sounds, and so on.[29]

The three countries in the world with the highest number of infections, deaths, and active cases—far higher than all other

[24]"Timeline of WHO's Response to COVID-19," *World Health Organization*, July 30, 2020 (updated). https://www.who.int/news-room/detail/29-06-2020-COVIDtimeline.

[25]Jaya Harrar, "Is Coronavirus Global Governance's Failure?" *Lawyer Monthly*, May 29, 2020, https://www.lawyer-monthly.com/2020/05/is-coronavirus-global-governances-failure/; Freedman, "How the World Health Organization's Failure to Challenge China."

[26]Freedman, "How the World Health Organization's Failure to Challenge China."

[27]Harrar, "Is Coronavirus Global Governance's Failure?"

[28]Ward, "World Leaders who Denied the Coronavirus's Danger."

[29]Ward, "World Leaders who Denied the Coronavirus's Danger."

countries—are the United States of America, Brazil, and India. The role of their leaders in handling the pandemic is of particular ethical concern.

2.1. The Handling of the Pandemic by the Leaders of the United States of America and Brazil

Undoubtedly, the United States is the most powerful country on earth today. Yet, it has the highest number of infections as well as the highest number of deaths due to COVID-19 in the world right now.[30] Where did it go wrong? Most blame the US President for mishandling the crisis. The public announcement by the UN of an impending epidemic on January 21 had given the U.S. nearly two months to prepare for the pandemic.[31] However, President Trump not only refused to acknowledge the problem, but he also gave false hope to his people with expressions such as "a hoax perpetrated by the Democrats," "the press is in hysteria mode," "we are totally prepared," "we are doing very well," "it will disappear and go away," "[the number] is going to be down to close to zero," etc.[32] Trump's passing on the blame to governors and mayors, calling for an early easing of lockdowns and forcing the economy to reopen—ostensibly so as not to endanger his chances of re-election—refusing to wear a mask, holding election rallies during the pandemic, and even discrediting the lifelong work of his own head of the National Institute of Allergy and Infectious Disease, Dr Anthony Fauci, all make it clear that the US President was "refusing to act in a manner appropriate to the magnitude of the emergency" and sending a wrong signal to the people of America.[33] The result is plain for all of us to see.

A similar attitude is reflected in President Jair Bolsanario of Brazil, where the number of positive cases and the death rate are the third highest and the second highest in the world, respectively.[34] He, too, has been criticized for "laughing about the disease and saying it's just

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[30] 7,447,282 and 211,740 respectively as on 30.09.2020; *Worldometer*, "COVID-19 Coronavirus Pandemic."

[31] AP Editorial Team, "China didn't Warn Public of Likely Pandemic for 6 Key Days."

[32] Philip Bump, "Trump Continues to Refuse to Accept the Deadliness of the Coronavirus Pandemic," *The Washington Post*, April 28, 2020.

[33] David A. Graham, "Trump Can't Bluff His Way Out of This," *The Atlantic*, June 26, 2020; The Editorial Board, "We the People, in Order to Defeat the Coronavirus," *New York Times*, May 1, 2020; Stephen Collinson, "Trump's Outrageous Refusal to Lead is Making the Pandemic Worse," *CNN*, July 17, 2020.

[34] 4,813,586 and 143,962, as on 30.09.2020; *Worldometer*, "COVID-19 Coronavirus Pandemic."

a flu and not a big deal," for refusing to wear a mask, for prohibiting the publishing of COVID data, allowing businesses to reopen despite rising deaths, and doing many 'non-normal' things during the pandemic such as riding a horse, jet-skiing, eating out in public, etc.[35] He himself tested positive some time later.

Mexico, Italy, Spain, Iran, and the UK are some other countries which turned a blind eye, and chose political and economic compulsions over public health and safety.[36]

2.2. The Handling of the Pandemic by the Government of India

India, at present, has the second highest number of infections and the third highest number of deaths in the world,[37] and the number of cases is ever rising. Questions have also been raised about the Indian leadership in responding to the pandemic.

The WHO had issued its first guidance on the novel coronavirus on January 10, 2020; on January 21 it had stated that there was credible evidence of human-to-human transmission, and on January 30, 2020, declared the 2019-nCoV outbreak a Public Health Emergency of International Concern, while calling for "early detection, isolating and treating cases, contact tracing and social distancing measures...to interrupt virus spread."[38] Incidentally, the first COVID case reported in India was also on 30 January of a student from Kerala who had been studying at Wuhan University.[39] Thereafter, other cases began to be reported in other parts of the country. Despite this, the Indian government organized a massive 'Namaste Trump' event in India. On February 24, US President Donald Trump, along with Prime Minister Narendra Modi, took part in a massive roadshow in Ahmedabad (Gujarat) which was attended by thousands of people, standing shoulder-to-shoulder, and which ended with Trump addressing the over one-lakh crowd at the largest cricket stadium in the world at Motera, Ahmedabad.[40] In his address to the huge crowd

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[35]Ivan Castano, "Brazilian Doctors Fume as President Bolsonaro Hid COVID-19 Data and now has Tested Positive Himself," *MarketWatch*, July 7, 2020; "Jair Bolsanaro and his 'Non-normal Antics amid Pandemic," Wion News, https://www.wionews.com/photos/jair-bolsonaro-and-his-non-normal-antics-amid-pandemic-314020.

[36]Ward, "World Leaders who Denied the Coronavirus's Danger"; AP, "China didn't Warn Public."

[37]6,310,267 and 98,708 respectively, as on 30.09.2020; *Worldometer*, "COVID-19 Coronavirus Pandemic."

[38]World Health Organization, "Rolling Updates on the Coronavirus Disease (COVID-19), https://www.who.int/emergencies/diseases/novel-coronavirus-2019/events-as-they-happen; accessed 17.08.20.

[39]David Reid, "India Confirms its First Coronavirus Case," *CNBC*, 30.01.2020.

[40]Jay Pandya, "'Namaste Trump' Event Responsible for COVID-19 Spread in Gujarat, India Paying Price: Cong," *Republicworld.com*, 8 May, 2020.

Trump said, "To the hundreds of thousands of everyday citizens who have come out and lined the streets in a stunning display of Indian culture and kindness, and to the 125,000 people in this great stadium today, thank you for the spectacular welcome to your magnificent country."[41] The Gujarat Congress Party sees a close connection between this event and the highest number of infections and deaths in Gujarat being in Ahmedabad.[42]

The PM was also criticized for allowing Parliament to function, despite the rising cases in the country, allegedly as it wanted to facilitate the formation of a BJP government in the State of Madhya Pradesh after toppling the Congress government there. Critics point out that the Prime Minister announced a nationwide curfew only on March 23, a day after the new Chief Minister of the State took oath of office, and on which day the Parliament session too ended—12 days ahead of schedule.[43]

The Indian leadership is also criticized for the present health crisis because of the unprecedented migrant crisis it gave rise to. The World Bank has estimated the internal migrant population of India to be around 40 million.[44] PM Modi imposed the first lockdown in the country from March 25 till April 14, declaring, "The Mahabharata war was won in 18 days, but the fight against coronavirus will last 21 days." Since then, there have been several "lockdown" and "unlock" events, but the numbers have continued to surge, with over 79,000 cases per day at present.[45] The PM had assured the country in a tweet on March 24 that "There is absolutely no need to panic. Essential commodities, medicines, etc. will be available." Yet, he failed to mention how they would be available, or how the hundreds of thousands of migrant workers stranded at their places of work would survive in the absence of daily wages.[46] As Pranab Bardhan points out, "The lockdown came with hardly any notice or consultation with the state governments, and without any simultaneous announcement about alternative food and shelter arrangements for the suddenly unemployed."[47] Left in this helpless

[41] White House, "Text of President Donald Trump's Speech in Motera Cricket Stadium in Ahmedabad, Feb. 24, 2020."

[42] Pandya, "'Namaste Trump' Event."

[43] Sidharth Yadav, "Coronavirus: In Madhya Pradesh, Power Play during a Pandemic," *The Hindu*, 25 April, 2020.

[44] World Bank, *COVID-19 Crisis through a Migration Lens*, April 2020, 27.

[45] Amit Bhattacharya, "India Sets Grim World Record with 79,000 fresh cases in a day," *The Times of India*, 30.08.2020.

[46] Devesh Kumar, "Half a Million COVID-19 Cases in India: How we Got to where we are," *The Wire*, June 28, 2020.

[47] Pranab Bardhan, "The two Largest Democracies in the World are the Sickest now," *Scroll.in*, August 24, 2020.

situation, there began, soon after, the large-scale exodus of migrant workers from the urban centres to their homes in rural areas, which houses nearly 70% of India's population. The government informed the Supreme Court during a PIL hearing that probably three out of ten migrants travelling from cities to villages could be carrying the coronavirus disease with them.[48] Today, the COVID hotspots have shifted from the cities to the villages, where under-funded health care infrastructure and poor living conditions provide fertile ground for the virus.[49]

The main ethical issue that we have been dealing with in this section is about the irresponsible behaviour of those in authority to act timely, and decisively, to control the pandemic during its initial as well as later stages, and allowing it to spiral out of control, allowing political, economic, or other reasons to take precedence over health and wellbeing of all.

We turn now to the other ethical issues in healthcare brought about by the pandemic.

3. Triage or Prioritization of Patients for Medical Care

One of the foremost ethical problems that has arisen is the issue of patient prioritization or triage. With the great influx of COVID-19 patients, health care systems in some countries—especially in the first few months—have been bursting at the seams with the great influx of patients, making it impossible for healthcare personnel to handle the huge load. Besides a shortage of healthcare personnel, life-saving resources such as hospital beds, ventilators for patients, N-95 masks for healthcare workers, etc., have become scarce. The shortage of ventilators, for instance, has led some hospitals to split ventilators between multiple patients, or to direct the scarce crucial resources to patients who can benefit most.[50]

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[48]See HT Correspondent, "One-third of Migrant Workers could be Infected with COVID-19: Centre Tells SC," *Hindustan Times,* April 1, 2020 (updated); "Coronavirus: Concerns in UP's Basti as 50 Migrants, Who Returned from Maharashtra, Found Positive," *India.com*, May 19, 2020 and "As Bihar Finds 26% of Returning Delhi Migrants Infected, Doubts Cast on NCR's COVID Count," *The Wire*, May 19, 2020, etc.

[49]Prashasti Singh, "New COVID-19 Hotspots are Emerging in Rural Villages across India," *Hindustan Times*, June 22, 2020 (updated).

[50]Ezekiel J. Emanuel *et al*, "Fair Allocation of Scarce Medical Resources in the Time of COVID-19," *The New England Journal of Medicine*, (May 21, 2020) 2049-1055, 2049; Amy L. McGuire *et al*, "Ethical Challenges Arising in the COVID-19 Pandemic: An Overview from the Association of Bioethics Program Directors (ABPD) Task Force," *The American Journal of Bioethics* (08 June, 2020) 1-13, 2, 10.

Important ethical questions have arisen in this regard: Since there are so many patients to be admitted and treated, just who do we admit, and on what basis? Should it be on a "first-come, first-served" basis, or those who are in a serious condition, or those who can financially contribute to their treatment? How can medical resources be allocated fairly during the pandemic, and on what basis do we make that determination? If the allocation is made on the basis of one who is most likely to benefit, how do we define 'benefit'? Is the allocation to be done on the basis of age, giving children, for instance, the priority, or on the quality of life years saved? This, however, is fraught with uncertainty as we cannot predict who is likely to survive in the critical care context, and moreover, such a practice has been widely condemned on grounds of disability discrimination. Another question that arises is whether it is justifiable to remove a patient from a ventilator who was admitted before the current crisis to save a COVID patient with a better prognosis. Healthcare professionals are agonizing about such medical decisions and about the ethical values and criteria to follow.[51]

Concerns have also been expressed "that the privileged, wealthy, and connected are unfairly accessing scarce medical resources, thereby reducing access for marginalized communities."[52] There is also the issue of unjust allocation for people in rural and remote communities. Not only do they get fewer resources, but sometimes it even involves "shifting resources such as ventilators and providers to hard-hit urban areas."[53] The situation is not different in India. As Dipankar Ghose reports, "In Bihar's Bhagalpur, the fight against COVID captures the challenge faced by many small towns [and villages] across India...crowded rooms, staff and patients without masks and gloves, flawed testing protocols and patchy infrastructure."[54]

Thus, prioritization and just resource allocation is a huge ethical challenge for physicians and those in charge of hospitals. This has led to an international discussion about the ethics of triage, allocation of scarce resources, and medical decision-making under crisis standards of care.[55]

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[51]Christopher Cheney, "4 Ethical Dilemmas for Healthcare Organizations during the COVID-19 Pandemic," *Health Leaders*, 18 March, 2020; McGuire, "Ethical Challenges," 1-3; Editors, "Bioethics Amidst the COVID-19 Pandemic," *Frontiers*, www.frontiersin.org; Emanuel, "Fair Allocation," 2049-51.

[52]McGuire, "Ethical Challenges," 4.

[53]McGuire, "Ethical Challenges," 8.

[54]"In Bhagalpur, Tale of 4 Health Centres: Crowded Rooms, Staff without Masks," *Indian Express*, 29.06.20.

[55]McGuire, "Ethical Challenges," 1.

4. Effect of the Pandemic on Non-COVID-19 Related Medical Care

The COVID-19 crisis has led to non-COVID-related treatment being severely affected due to the de-prioritization of some services and interventions and directing them towards handling the pandemic, as well as due to the fear many non-COVID patients have of contracting the virus if they are treated in the same facility as COVID patients.[56] The Maharashtra (India) government, for instance, has specified that 80% of the beds in private hospitals are to be reserved for the treatment of COVID patients.[57] This not only has affected routine health checkups and simple treatments, but has also affected critical care. What happens, for example, to the other patients who were already admitted and are in need of critical care, such as patients for bone marrow transplants, cancer treatment, heart or lung failure, and other life-threatening conditions?[58] The postponement of such treatment in some cases has led to morbidity or mortality.[59]

Needless to say, hundreds of thousands of private doctors, and those who work for them, have been badly affected as they have had to shut their practices during this period.[60]

5. Informed Consent, CPR, DNR Orders, and Disposal of the Dead

The pandemic, with its resource shortages and requirement of physical distancing, is also posing profound questions about current standards of ethics concerning consent and other related issues. Amy McGuire explains the issue:

> Treatment of COVID-19 often requires decisions to be made quickly, and some settings have been overwhelmed with patients needing urgent care, so there is less time for communication of information than usual. Patients may be unable to take consent forms home to read and discuss with families, and because hospitals commonly bar visitors, including surrogates, patients who lack capacity to consent for themselves face particular challenges..

Hence, in this dire situation, individual patients' or families' wishes and the obligation to obtain informed consent may not be possible, or may be very difficult.[61]

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[56]Richard Huxtable, "COVID-19: Where is the National Ethical Guidance?" *BMC Medical Ethics* (01 May, 2020) 1-3, 1.

[57] Sahil Joshi, "Maharashtra Government Takes over 80% Beds in Private Hospitals," *India Today*, 22.05.2020.

[58]Huxtable, "COVID-19," 1; See Emanuel, "Fair Allocation," 2054.

[59]McGuire, "Ethical Challenges," 5.

[60]Margot Sanger-Katz, "Why 1.4 Million Health Jobs Have been Lost during a Huge Health Crisis," *New York Times*, 10 May, 2020; Daniel Horn, "The Coronavirus is Bankrupting Primary Care Doctors," *The Washington Post*, 24 April, 2020.

The same difficulty arises with regard to Cardiopulmonary Resuscitation (CPR) and Do Not Resuscitate (DNR) orders. As Dr Christine C. Toevs explains, CPR is the automatic default to resuscitate the patient when the heart stops. Should CPR be applied to COVID patients with heart or breathing failures—which is a high-risk exposure and is to be done with the Personal Protective Equipment (PPE) on, which of course takes time to don while every second counts for the patient? Moreover, the team will then have to be excluded from work for 14 days after the exposure, as per recommendations. Resuscitation in such cases therefore seems dangerous and unreasonable, and hence best avoided. "We can see how universal application of DNR in all patients with COVID-19 is being considered in many hospitals," says Dr Toevs.[62] At the same time, we also have family members who, on the other hand, are reluctant to have doctors undertake treatment on their loved ones due to various difficulties involved such as uncertainty about the treatment outcome, financial constraints, fear of contamination, etc.[63] The pandemic suggests, then, that we may be forced to adapt our customary ethical practices and elaborate more fully other adequate ethical measures in this regard.[64]

The current situation has also left patients and their family members helpless in the face of death. The revised visiting policies have forced people to die alone, isolated from their loved ones and human contact, [65] final farewells and death rituals have been disrupted.[66] We read such things about the treatment of the dead as: "Bodies of COVID-19 victims tossed into mass graves in Karnataka,"[67] family members forced to "leave dead bodies in the city's streets after morgues and funeral homes were overwhelmed... and for fear of infection,"[68] and so on.

6. The Sorry Plight of Healthcare and Other Frontline Workers

The pandemic also raises the sorry plight of our healthcare and other frontline workers. Many healthcare personnel are being

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[61]McGuire, "Ethical Challenges," 5-6.

[62]Christine C. Toevs, "CPR in the Times of COVID-19," *Christian Medical and Dental Associations*, 07 April, 2020.

[63]Sumitra DebRoy, "Don't Escalate Treatment, Say Kin of Critical Seniors," *Times of India*, 07.07.2020.

[64]McGuire, "Ethical Challenges," 6.

[65]McGuire, "Ethical Challenges," 10.

[66]Huxtable, "COVID-19," 1.

[67]NDTV tweet, 01.07.2020.

[68]WION Web Team, 08.05.2020.

diverted into new and unfamiliar areas of work and finding themselves working at, or even beyond, the ordinary limits of their competence or expertise, while also facing concerns that some of their actions may attract criminal, civil or professional liability.[69] Some of them go through a lot of moral, emotional, and psychological distress due to their long hours of work, their feeling of helplessness in the situation, the sight of death all around (sometimes of their own colleagues), a feeling of anxiety and guilt when they believe that the right course of action is not taken in a particular case because of institutional or other factors, or when they have to act contrary to what they see as core values and principles of their profession such as the value of each human life, informed consent, best interest of each patient, compassionate care, and so on.[70] The repercussions of pandemic care on healthcare providers also include depression, sleep disruption, anxiety, and post-traumatic stress disorder.[71]

A related question is about whether frontline workers such as medical staff, police, firefighters, those supplying essential goods and services, etc. should be given priority in accessing medical facilities and scarce resources in the event of their being infected. Many agree that they *should* receive preference, as without them the fight against the pandemic cannot be won, but provided some guidelines are in place so as to avoid accusations of undue discrimination.[72]

7. A Strain on Hospitals' Financial Viability

We have been hearing, on the one hand, several cases of private hospitals trying to make the most of the pandemic by fleecing the patients and their families. However, the problem seems to be restricted to a few countries. Some hospitals in India, for instance, had been charging between Rs. 300 and 400 thousand Rupees for a COVID treatment. As a result, the Supreme Court had to step in and direct the Government of India to use its powers under the Disaster Management Act (DMA) to direct States to regulate the cost of treatment.[73]

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[69] British Medical Association, "COVID-19: Ethical Issues: A Guidance Note," April 2020. https://www.bma.org.uk/media/2360/bma-COVID-19-ethics-guidance-april-2020.pdf.

[70] Emanuel, "Fair Allocation of Scarce Medical Resources," 2052-53; McGuire, "Ethical Challenges," 4, 6.

[71] McGuire, "Ethical Challenges," 6.

[72] McGuire, "Ethical Challenges," 3.

[73] Abraham Thomas, "Regulate COVID Treatment Costs at Private Hospitals, Orders Supreme Court," *Hindustan Times,* July 14, 2020; See C. Marpakwar, "Audit Reveals how Hospital Inflated COVID Patient's Bill," *Mumbai Mirror*, 07.07.2020.

For most hospitals in the world, especially private ones, the pandemic has put a huge dent in their financial resources. For many healthcare centres, providing healthcare is a business—although the services they provide are considered essential[74]—while some others run them as a service to humanity, such as those run by religious institutions, who have fewer financial resources. Many countries have mandated that a major part of these facilities be open for COVID-19 patients, including in India. This has led to a significant reduction in the revenues of many hospitals as they have had to buy costly equipment, reduce their services to other patients, incur heavy maintenance costs, and so on. Moreover, many ordinary patients they serve do not have insurance and cannot pay the high cost necessary at present for the COVID treatment.[75] Many reports show how healthcare centres, both in India and abroad, are staring at financial losses and are on the brink of collapse as they try to cope with the present crisis.[76]

8. Citizens' Privacy and Rights

The ethical issues of citizens' 'rights' as well as their 'privacy' have also arisen during this pandemic.

As we are aware, one of the important requirements to contain the COVID-19 pandemic is to identify, isolate and treat patients as soon as possible, otherwise there is the danger of their coming in contact with others and further spreading the deadly disease. There is also the problem of some probable carriers, especially those who have travelled from one place to another, not wanting to be quarantined, or of those who run away from their place of quarantine, those who give wrong addresses, etc.[77] It is here that cell phones come in very useful so as to know where infected people are, where they have been, whom they have been close to or in contact with, who are in their vicinity, and so on. The governments of several countries around the world, such as China, Israel, Singapore, India, USA, and others, in collaboration with telecom and technology companies, have rolled out apps that either encourage, or require, their citizens to

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[74] McGuire, "Ethical Challenges," 7.

[75] McGuire, "Ethical Challenges," 7.

[76] For instance: "Private Hospitals Stare at Losses amid COVID Outbreak," www.livemint.com, 15.04.2020; "US Hospitals are Losing Millions of Dollars per Day in the midst of the COVID-19 Pandemic," www.cnbc.com, May 5, 2020; "Layoffs and Losses: COVID-19 Leaves US Hospitals in Financial Crisis," www.usnews.com, May 6, 2020.

[77] Mayilvaganan, "Contact Tracing: Has Tamil Nadu Lost Track?" *Times News Service*, June 8, 2020.

install and check in regularly and report their locations.[78] Such a move has been successful in keeping track of the patients and their contacts, alerting others of the presence of suspected carriers, tracking down those who dispersed among the general population, etc. While this practice can certainly slow the spread of the coronavirus, it has also sparked concerns about privacy issues.[79]

Privacy concerns were raised in India when the government introduced the *Aarogya setu* app.[80] Some Indian States have access to the call data records (CDRs) of COVID-19 patients. The State of Uttar Pradesh used Call Data Record especially to track migrant labourers who had returned to the State.[81] The Chief Minister of Kerala, Pinarai Vijayan, admitted that the CDRs were being collected "for the sake of public health and safety," while adding that the information collected "will not be passed on to anyone else or used for any other purposes."[82] However, this may not always be possible. A local leader, in Kerala, for instance, was found to have secured the mobile numbers of many COVID-19 patients.[83]

Respecting privacy is a core ethical principle, and tracking someone's personal information may be considered by some as a violation of their privacy, the major concern being about who will have access to an individual's private information, for what purposes, and for how long.[84] People are naturally troubled about the possibility that the data from one's mobile device will be linked "to other things like health behaviours and use of the health care system, genomic testing, consumer habits, credit card data...to track citizens in a nefarious way," and so on.[85] The *New York Times* editorial expresses this well when it says that "giving the government access to all that data carries huge risks. There were already far too many examples of law-enforcement officials abusing their access to cell phone data in the pre-COVID era, taking advantage of revolutions in

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[78]The Editorial Board, "We the People, in Order to Defeat the Coronavirus," *New York Times*, May 1, 2020.

[79]Craig Timberg *et al*, "Cellphone Apps to Track COVID-19 Spread Struggle Worldwide amid Privacy Concerns," *The Washington Post*, August 18, 2020.

[80]Tech2 News Staff, "*Aarogya Setu*: Lack Of Data Privacy Laws, Transparent Policies Make App Worrisome, Say MIT Researchers," *Firstpost*, May 11, 2020.

[81]Shika Salaria *et al*, "CDR Use for COVID Contact Tracing on for Months in Uttar Pradesh," *Times News Network*, August 18, 2020.

[82]Muhammed Sabith, "Kerala: Opposition Raises Pitch against Police Move to Collect Call Records of COVID-19 Patients, *The Wire*, August 18, 2020.

[83]Sabith, "Kerala: Opposition Raises Pitch."

[84]Samuel Volkin, "Digital Contact Tracing Poses Ethical Challenges," *Johns Hopkins University* (HUB), May 26, 2020.

[85]Volkin, "Digital Contact Tracing Poses Ethical Challenges."

technology to track people in ways that no one would imaginably consent to." The editorial also points out that telecom and technology companies "have a poor record of protecting their users' private information," and also that "governments have a very poor track record of relinquishing new powers once they have them."[86]

Another concern is about respecting autonomy: should one be forced to install a tracing app in one's device or should it be left for a person to decide? And, can the government do it surreptitiously in such pandemic situations? The question also arises about the principle of equity: if digital contact tracing provides a benefit, then should it not be available for all the citizens? On the other hand, if it is seen as burdensome, then why target only those with smartphones? These are difficult questions, for which there are no easy answers. Hence, as Samuel Volkins rightly notes, it has to be a collaborative effort of the government, public health authorities, institutions, employers, app developers, and the public, all working together, along with strong protective measures to address the privacy concerns.[87] In its *Digital Contact Tracing for Pandemic Response*, the Johns Hopkins University has issued clear ethical and governance guidelines to be followed in digital contact tracing.[88]

9. The Ethics of Human Challenge (Infection) Studies

One of the key means of overcoming the COVID-19 crisis is to have an effective vaccine, which involves the deliberate infection of healthy volunteers so as to test the safety and efficacy of potential vaccines and therapeutics—referred to as "controlled human infection studies" or "human challenge studies."[89] But is this practice ethical? The medical fraternity is divided in its opinion. Dr Anthony Fauci, Director of the US National Institute of Allergy and Infectious Disease, along with several other experts say, on the one hand, that human challenge trials are unethical, while others, including Adrian Hill, Director of the Jenner Institute and professor of Human Genetics, University of Oxford, say they are justified and that they were also successfully conducted on previous viruses without any problems.[90]

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[86]The Editorial Board, "We the People, in Order to Defeat the Coronavirus."

[87]Volkin, "Digital Contact Tracing Poses Ethical Challenges."

[88]Jeffrey P Kahn, ed., *Digital Contact Tracing for Pandemic Response: Ethics and Governance Guidance,* Baltimore: Johns Hopkins University Press, 2020.

[89]See Euzebiuz Jamrozik, "COVID-19 Human Challenge Studies: Ethical Issues," *The Lancet* (May 29, 2020), DOI: 10.1016/S1473-3099(20)30438-2, 1-6, 1.

[90]Rashmi Mabiyan, "Fauci Says Human Challenge Trials not Ethically Justified, Experts Disagree," *ET Health World*, July 31, 2020.

The World Health Organization states, "Research involving the deliberate infection of healthy volunteers may seem intuitively unethical, and there are numerous prominent historical examples of unethical research involving deliberate infection of research subjects."[91] But it adds that human challenge studies can be ethically justified, under certain conditions; it has enumerated eight criteria for human challenge studies of the COVID vaccine.[92] Although there seems to be a fairly good safety record in human challenge studies, there are also some risks of serious harm, as well as uncertainty of the consequences when healthy participants are infected. It also has potential risks to third parties such as the research staff and to the wider community, as, for instance, when the pathogen used to infect participants spreads to others.[93]

A special challenge comes from the method used to obtain a vaccine. Some of the vaccines under experimentation for COVID-19 are being developed from the foetal line of aborted foetuses, and hence unethical, while some others are not.[94] According to the Catholic Church, "The use of human embryos or fetuses as an object of experimentation constitutes a crime against their dignity as human beings...These forms of experimentation always constitute a grave moral disorder."[95] Care should be taken to see that human dignity is in no way threatened while procuring a vaccine.

10. Developing and Distributing a Safe and Effective Vaccine

A final issue in healthcare that we look at is about the ethical concerns that arise in producing a safe and effective vaccine for the pandemic.

The world is desperately looking for the ultimate answer to our present crisis—a vaccine that will rid the world of the pandemic and help us return to normalcy. Several efforts have been made right from the very start, and the world is much close to the answer. However, several ethical issues have arisen in the process.

Many countries are making efforts to produce an effective vaccine. At present there are more than 165 vaccines in the pipeline, and at

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[91]World Health Organization (Working Committee), "Key Criteria for the Ethical Acceptability of COVID-19 Human Challenge Studies," 6 May, 2020. www.app.who.int., 5.

[92]World Health Organization, "Key Criteria..." 1-19.

[93]Jamrozik, "COVID-19 Human Challenge Studies," 1, 3-4.

[94] Melissa Butz, "Coronavirus Vaccine Poses a Potential Ethical Problem for Catholics," *Rome Reports*, May 31, 2020.

[95]The Congregation for the Doctrine of the Faith (2008), *Dignitas Personae*, 34.

various stages of development.[96] It is here that the first problem arises. The ideal is to collaborate and share information so as to develop a common vaccine that is safe and effective, but geopolitical factors don't allow this to happen; there is "a distressing lack of global solidarity."[97] Each country wants to be the first to patent their vaccine, and in the process may use unethical practices. The American, British, and Canadian governments have accused Russian hackers of attempting to steal coronavirus vaccine research details from universities, companies, and other healthcare centres "aiming to steal research to develop their own vaccine more quickly" and for a geopolitical advantage.[98] Similarly, the US Department of Justice also formally accused two Chinese hackers of stealing information regarding the COVID-19 vaccine research, since China wants to have an advantage over the vaccine, worrying "that the development of a successful vaccine in the West would be an unacceptable blow to their prestige, particularly given the pandemic's origin in China."[99]

Another ethical issue is that, as we are aware, the production of a vaccine in the normal course is a long and complex process, involving years of research and testing for its effectiveness. However, some countries have tried to take short-cuts as they attempt to produce a quick vaccine, at the risk of public health. Russian President Vladimir Putin, for example, announced on 11 August 2020—just a few months into the pandemic—that the country's health regulator had become the first in the world to approve a coronavirus vaccine (calling it 'Sputnik-V'), for widespread use. Scientists around the world were horrified and have condemned the decision as dangerously rushed, since the crucial phase III trials of the vaccine for testing the vaccine's efficacy and for possible side-effects have not yet been completed.

Concerns were also raised in India when the Director-General of the Indian Council of Medical Research (ICMR), in his circular dated July 2, 2020, wrote to 12 medical institutions and hospitals "to fast-track clinical trials of the indigenous COVID-19 vaccine (BBV152 COVID Vaccine)" which was "being monitored at the topmost level of the government" and envisaging "to launch the vaccine for public health use latest by 15th August 2020 after completion of all clinical

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[96] Jonathan Corum *et al*, "Cornavirus Vaccine Tracker," *The New York Times*, August 21, 2020.

[97] Robert Farley, "US Accuses Chinese Hackers of Stealing COVID Vaccine Research," *The Diplomat*, July 22, 2020.

[98] Julian E. Barnes, "Russia is Trying to Steal Virus Vaccine Data, Western Nations Say," *The New York Times*, August 11, 2020 (Updated).

[99] Farley, "US Accuses Chinese Hackers of Stealing COVID Vaccine Research."

trials." The letter ends, "Kindly note that *non-compliance will be viewed very seriously*. Therefore, you are advised to treat this project on highest priority and meet the given timelines without any lapse."[100] The medical fraternity was aghast that, even though we have an emergency, the launch of the vaccine was being rushed in such a superfast manner, without even conducting the Phase 1 and Phase 2 trials.[101] Dr Anant Bhan, a specialist in global health and bioethics, was especially critical of the move, remarking, "For a vaccine for which pre-clinical development is still ongoing... A vaccine trial completed in little over a month, efficacy pre-decided?"[102] Researchers say that "Rolling out an inadequately vetted vaccine could endanger people who receive it," and "(i)t could also impede global efforts to develop quality COVID-19 immunizations."[103]

Katie Pearce places another complex ethical problem that arises, namely, about how, when a vaccine is found to be safe and effective, it will reach everyone in the world in a fair and equitable way. Right now, it is the private sector, rather than governments or academic laboratories that are striving to develop the vaccines. Naturally, the private sector will be motivated by profits rather than concern for the poor and the needy. Besides, there is bound to be short supply as the demand will be very much greater than the supply. We have here the problem of "vaccine nationalism," that is, the understanding of countries that their obligations are to be primarily, if not exclusively, to their own citizens. Economically well-off countries will be the first to procure the vaccines for their citizens and also stock them, ignoring the needs of the people in countries with scarce resources. At the same time, within a country itself, there is bound to be a similar problem, as those well-off will be in an advantageous position than poorer or other disadvantaged people.[104] There needs, therefore, from an ethical perspective, to be a proper balance between the distribution of the vaccines to the global community and among the citizens of a country. The WHO chief called for an end to 'vaccine

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[100] Director-General, Indian Council of Medical Research (ICMR), circular No. DO.no.ECD/COVID19/Misc.2020, July 2, 2020; emphasis as in the original.

[101] Prasad Ravindranath, "ICMR Threatens Principal Investigators to Complete COVID-19 Vaccine Trial by August 15," *Science Chronicle*, July 3, 2020; Sanjay Kumar, "Scientists Scoff at Indian Agency's Plan to have COVID-19 Vaccine Ready for Use Next Month," *ScienceMag.Org*, July 6, 2020.

[102] Anant Bhan, @AnantBhan, July 3, 2020.

[103] Ewen Callaway, "Russia's Fast-track Coronavirus Vaccine Draws Outrage over Safety," *Nature*, August 11, 2020.

[104] Katie Pearce, "Distributing A COVID-19 Vaccine Raises Complex Ethical Issues," *Johns Hopkins University* (HUB), July 1, 2020.

nationalism' saying, "we've learned the hard way that the fastest way to end the COVID-19 pandemic and to reopen economies is to start by protecting the highest risk populations everywhere, rather than the entire populations of just some countries... Sharing finite supplies strategically and globally is actually in each country's national interest—no one is safe until everyone is safe."[105] At the global level, the WHO is participating in the ACT (Access to COVID-19 Tools) Accelerator, a collaboration between major global health actors to oversee and help ensure an equitable global access of the resources.[106] It is the responsibility of each country to ensure the just and equitable distribution of the vaccine, when it becomes available, to its citizens.

Conclusion

The COVID-19 pandemic has created an unprecedented crisis in the world for all of us and brought normal life to a standstill. It has raised several ethical problems in the medical field, as we have seen above. Core ethical values and traditional guiding principles of medical ethics have been challenged in several respects. This crisis has made us aware that we need to acknowledge, at the very start, any situation that can blossom and become a major health issue affecting ourselves and others, and that we need to communicate the problem to others so that all are aware, and every effort to contain the problem at the very outset. The World Health Organization, all the world leaders, and all other related organizations and institutions have an important responsibility and a major role to play, setting aside narrow political, economic, cultural, or other goals and collaborate together so as to ensure the common good of all. Governments must also ensure that the important values of human dignity, human rights, privacy, equity, and justice are upheld at all times as we make our way out of this crisis. Citizens, too, need to cooperate and help their respective governments in their efforts to end the present health crisis and help life return to normalcy.

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[105] Dr Tedros A. Ghebreyesus, Director-General, World Health Organization (media briefing), August 18, 2020.

[106] See Pearce, "Distributing A COVID-19 Vaccine Raises Complex Ethical Issues."