

A Study on Medical Ethics and Human Rights in India

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Abstract—Right to Health is the most important human right which grounds in protection of Right to Life with human dignity. Medical Ethics and Human Rights are two parallel mechanisms where one works for doctor-patient relationship and another works for socio-political level. The two pillars of complementary which works for one another to protect the patient. The purpose of this research paper is to brief out on the medical ethics and human rights in India and to bring out laws which are not familiar for the young generation to look out for the violations in the medical field. This research paper deals with four important problems and the laws associated as solutions to curb the problem in this society.

Keywords— medical ethics, human rights, laws, public health, euthanasia, abortion, human testing, organ transplantation

I. INTRODUCTION

As Yechiel Michael Barilan comments, “Some words are ubiquitous, important, intuitively grasped by everyone, and yet they lack clear definitions. Love, hope, justice, and friendship are such words. Human dignity belongs to this group as well.” The lack of clarity about the foundations of and justification for the right to health has been problematic in a number of ways. The failure to provide a stronger conceptual foundation and more comprehensive theoretical exposition for the right to health linked to that foundation has complicated efforts to reach a consensus about the normative content, scope, and requirements of the right. It has also hindered efforts by some judiciaries to interpret the right. The purpose of this research paper is to brief out on the medical ethics and human rights in India and to bring out laws which are not familiar for the young generation to look out for the violations in the medical field.

II. METHODS

For this analysis, the data and documents were collected from various sources which includes newspaper articles, google scholar and the verified articles published in the blogs. The data was

collected from the various sources and verified for the authenticity.

III. DISCUSSION

Medical Ethics and Human Rights

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination. Ethics is the application of values and moral rules to human activities. Biomedical ethics is a subsection of ethics, that uses principles and decision making to solve actual or anticipated dilemmas in biology and medicine. Ethics seeks to find reasoned, consistent and defensible solutions to moral problems.

Historical Evolution of Medical Ethics

➤ League of Nations

After world war - I , in 1920, an inter-governmental organization as a result of Paris Peace Conference. Its important goals and related treaties include Global health and just treatment of human. It has both successes and failures in their way. The World War-II broke out and it had massive failure. After 26 years, United Nations replaced it after the end of World War- II and inherited several agencies and organizations founded by the league.

➤ Hitler Regime and Unethical Medical Experimentation

A number of German physicians conducted painful and often deadly experiments on thousands of concentration camp prisoners without their consent.

Unethical medical experimentation includes:

1. survival of axis military personnel
2. developing and testing pharmaceuticals and treatment methods for injustice and illness
3. to advance the radical and ideological tenets

➤ Nuremberg Code (1945-1947)

10 points to be followed for the human experimentation:

1. Voluntary well informed understanding of legal capacity.
2. Experiment should aim for the positive way for the society.
3. Based on the previous knowledge of the research.
4. Should be set up to the limited injuries.
5. Should not be carried out when the death or disability will be the cause.
6. Benefits should be equal or more than the effects and risks.
7. Preparation and facilities should be given efficiently.
8. The researchers should be fully trained and scientifically educated.
9. When the human testing person could not continue with the research, he can quit at any point.
10. The research should be stopped when it will kill the human.

➤ Indian Medical Association

Indian Medical Association was established in the year 1928. It was registered under "the societies act of India". 2,20,000 member doctors belong to this association. 1,700 active local branches are under this association. Indian Medical Association is one of the founder member of World Medical Association.

➤ World Medical Association

World Medical Association was established in the year 1947. The main aim is to establish and promote the highest possible standards of ethical behaviour and care by physicians. The purpose of this association is to deal with the ethical issues related to medical professionalism, patient care, research on human subjects and public health.

➤ Helsinki Declaration

Helsinki Declaration is a set of human testing principles declared by World Medical Association. It was adopted in June, 1964 at Helsinki, Finland.

Human Rights Violations and Biomedical Ethics

➤ Issues pertaining to Euthanasia

Euthanasia is the practice of ending the life of a patient to limit the patient's suffering. The patient in question would typically be terminally ill or experiencing great pain and suffering. The word

"euthanasia" itself comes from the Greek words "eu" (good) and "thanatos" (death). Euthanasia is also referred as Mercy Killing. There are two types of Euthanasia:

Active Euthanasia is when death is brought about by an act - for example when a person is killed by being given an overdose of pain-killers.

Passive Euthanasia is when death is brought about by an omission - i.e. when someone lets the person die.

Law regarding Euthanasia

Indian Penal Code, Section 302- punishment for murder - capital punishment or imprisonment for life.

Indian Penal Code, Section 309- attempt to commit suicide and abatement of suicide. imprisonment for two years.

➤ Abortion- Medical Termination of Pregnancy, 1971

Abortion is the ending of a pregnancy by removal or expulsion of an embryo or fetus. An abortion that occurs without intervention is known as a miscarriage or "spontaneous abortion" and occurs in approximately 30% to 50% of pregnancies. 15.6 million abortion happens in a year worldwide.

Law regarding Abortion

Indian Penal Code, Section 312- punishment for causing miscarriage- 3 years of imprisonment for the person who illegally wants termination of pregnancy and 7 years of imprisonment for the women who undergo illegal abortion.

Reasons for legal termination of Pregnancy in India:

- due to physical and mental disability of the women
- due to physical and/or mental disability of the child
- due to the rape
- due to the failure contraception with the married men by her wife

Opinion of the doctor for abortion:

- Termination during 1-12 weeks of pregnancy needs opinion from one doctor
- Termination during 12-20 weeks of pregnancy needs opinion from two doctors

Consent for terminating pregnancy:

- She can give consent for herself
- If the girl is below 18 years, the consent of parents or guardian is valid
- The consent of husband is not mandatory for terminating pregnancy

➤ Human Testing and Indian Council of Medical Research (ICMR) Guidelines, 2006

Human testing is defined as conduction of medical experiments on human beings. There are 3 main guidelines for Human Testing which includes:

- The purpose of the research is to increase knowledge about the particular testing medicines, symptoms or issues whichever result helps to be a major milestone in the medical field.
- The conduct of the research should be with dignity and well being of the subjects.
- The researcher should submit evaluation of the research at all the stages.

Basic principles which should be followed for human testing are:

1. Principles of essentiality
2. Principles of voluntariness, informed consent and community agreement
3. Principles of non-exploitation
4. Principles of privacy and confidentiality
5. Principles of precaution and risk minimization
6. Principles of professional competence
7. Principles of accountability and transparency
8. Principles of the maximization of the public interest and of distributive justice
9. Principles of institutional arrangements
10. Principles of public domain
11. Principles of totality of responsibility
12. Principles of compliance

➤ Transplantation of Human Organ Act, 1994

Guidelines for organ transplant:

- Regulation to remove the organ from cadaver
- Storage and transplant of organs in the name of therapeutic reason
- To bring the end to sale of human organs
- Altruistic probation is only accepted
- 8 years of imprisonment for sale of organs

Guidelines for the application approval of the transplantation are as follows:

1. Signed medical certificate
2. No objection certificate from donor's relative
3. Joint application from donor and applicant
4. Separate form to tell altruistic motive if the donor is not a first ring relative
5. Permission of 2 relatives for donation from cadaver
6. Death certificate of the donor, if the donor is dead
7. Financial status of the donor and reason of the donation should be mentioned

8. Interview with donor and recipient should be attached

9. Approval from authorization committee

10. Videos of interview should be attached with the application

IV. RESULTS

As a consumer of hospital services, every citizen have following rights:

- Right to safety
- Right to be informed
- Right to make a choice
- Right to be heard
- Right to seek redressal
- Right to consumer education

At a minimum it should clarify what we can truly expect from a right to health, moral or human.

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