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Supreme court judgement violates medical ethics

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EDITORIAL**Supreme court judgement violates medical ethics**

On January 19, 1995 we learnt that Justices Kuldip Singh and B. L. Hansaria of the Supreme Court of India passed a judgement which forces doctors employed in prisons to participate in execution by hanging and thus violates medical ethics. This judgement was passed on a petition in the public interest against provisions, in the Punjab Jail Manual, on keeping the body of a condemned prisoner hanging for half an hour after falling from the scaffold. It was argued that such provision and practice were inhuman and barbarous.

The Judges ruled that the purpose of hanging is to execute the prisoner, the duration of hanging being immaterial. The prisoner should only hang till his/her body became lifeless.

The second part of the ruling orders the doctor employed by the jail authorities to examine the body every few minutes after the drop. As soon as the doctor diagnoses death, the body must be brought down.

Violation of medical ethics

This judgement makes the doctor a direct participant in the judicial execution of a human being. On occasion, the doctor will have to tell the jail authorities that the person is still alive, knowing that such information will be used only to continue hanging the body till the person dies. The ruling also implicitly orders the doctor not to resuscitate the condemned prisoner who remains alive after the drop.

These requirements violate medical ethics: (a) By providing information that leads directly to death, the doctor knowingly acts to cause death of a person. (b) For a doctor to remain present and refrain from resuscitating a person in danger of losing his life contravenes medical ethics. (c) The judgment orders the doctor to discriminate against the prisoner simply because the Court has condemned him/her to die. Whilst the Courts have full authority to punish a prisoner with death, they cannot make a doctor discriminate against the condemned prisoner. For the doctor, a pris-

oner, like any other individual, is to be helped when in danger of losing life.

Forum protests

The Forum for Medical Ethics Society wrote to the Chief Justice, Supreme Court of India, on February 3, 1995 and requested him to ensure that the judgement not be implemented. The Forum expressed its willingness to assist the Court by making a detailed submission (including notes on practices and provisions in other countries that safeguard the ethics of doctors under such circumstances) after going through the full text of the judgment. A review was requested.

The Forum agreed with the need to abolish the procedure of leaving the body hanging for half an hour. It also accepts the need to examine the condemned person to determine death. It suggested that these repetitive examinations be conducted by a non-medical prison official trained to make the diagnosis of death. Once such a diagnosis is made, the body can be taken to the doctor for final examination and certification of death.

The Supreme court rejected Forum's request. Mr. Raj Gopal, Assistant Registrar of the Supreme Court of India replied (letter 32 1/90/Sc/PILC dated April 1, 1995): "I am directed to say that The Forum for Medical Ethics Society not being a party to the proceedings, no action can be taken on the matter."

This is a response expected of a bureaucrat. It uses a technical point to dodge a vital issue. The Honorable Judges of the Supreme Court could, if they wished, modify their judgement in the public interest. If necessary they could have converted our letter into a petition.

Representations from others in India and abroad to the Honorable Chief Justice, Supreme Court of India, New Delhi, India (Telegraphic Address: SUPRE-MECO, New Delhi, India) may help.

Amar Jesani