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Medical ethics, the practitioner and orders issued by-the state

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Item Type	Article
Authors	Jesani, Amar;Pilgaokarl, Anil
Publisher	Forum for medical ethics society
Rights	With permission of the license/copyright holder
Download date	2026-11-09 23:50:12
Link to Item	http://hdl.handle.net/20.500.12424/232218

Download Date : 2015 12 12 23:18:54 PM GMT +05:1800 Asia/Kolkata

PATIENT'S AUTONOMY
Throwing It To The Winds ?

Medical ethics, th.e practitioner and orders issued by the state: gray areas of our own making.

Amar Jesani, Anil Pilgaokar[1]

A questionable medical act:

A short while ago, interventions were carried out by doctors (presumably under 'orders' from 'higher authorities') on persons competent to make decisions despite their protests. This raises the following issue: What does a medical practitioner do when the dictates of 'employers'/'State' conflict with the principles of medical ethics'?

Medha Patkar (a well-known leader in the *Narmada Bachao Andolan)* and Devram Kanera were on indefinite fasts in Bombay to protest against the construction of the controversial dam. On the second day of their fasts, they were arrested by the police and taken to St. George's Hospital. Despite their protests intravenous fluids were infused into them by doctors at the hospital. Patkar and Kanera were released two days later. Re-arrested nine days later, they were taken to Bombay Hospital. Attempts to force feed them were made there despite protests.

Possible reasons for lack of protest from the profession:

Whilst a few doctors in Bombay protested in letters to leading dailies against such actions by their colleagues in these hospitals, the medical community at large has remained silent. We wonder whether the following played a role in ensuring this silence:

1. Some of us may be ignorant of the ethical requirement that we must respect the autonomy of patients as regards choice of therapy especially when they are competent to exercise such a choice.

2. Some may feel that once a person is legally 'arrested', her/his rights as a patient are restricted.

3. Many might be unwilling to allow a person's health to deteriorate when 'simple therapy' such as an infusion will restore fluid and electrolyte balance.

4. There may be a feeling that when superiors 'order' subordinates to carry out actions that might contravene ethics, the onus shifts to the superiors.

Why ***these reasons don't hold:***

Let us discuss some of these, taking the last argument first. In the Nuremberg trials doctors violating ethics were penalized despite the fact that they were 'obeying State orders'.

'Arrest' does not and can not suppress right to autonomy of patients. Internationally recognized codes and declarations have been formulated for our profession when dealing with those on hunger strikes. The Tokyo declaration (1975) of the World Medical Association (WMA) stated: 'Where a prisoner refuses nourishment and is considered by the doctor as capable of forming unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially...'

Refusing nourishment (hunger fast) is recognised as a legitimate form of democratic protest. Mahatma Gandhi used it in desperate situations with remarkable efficacy. The issue on which such a protest is undertaken should not influence the doctor's action. ***The*** patient's autonomy over her/his person must be respected.

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No agency, including the police and judiciary can order a doctor to act contrary to medical ethics.

An honourable way out for a dissenting doctor:

The section of the Tokyo declaration referred to above was expanded in 1991 in Malta in 'WMA Declaration on Hunger-Strikers'. The ethical conflict between the doctor's moral obligation to save life and respect for the patient's autonomy was considered. Whilst upholding the stand taken in Tokyo, it advised those doctors who could not accept the patient's decision to refuse medically administered nourishment to hand the patient over to another doctor.

Why, then, do we see such unethical "obedience of orders?

Ignorance of ethical norms is inexcusable on the part of the medical practitioner. Medical colleges and the Medical Councils must be censured for not putting forth clear guidelines.

Under the circumstances it is up to us to rectify the situation. Should one or more of our colleagues face action for refusing to obey patently unjust and unethical orders, the rest of us must rally to their defence and make the authorities realise that right must prevail.

Failure to act will take us closer to the horrors of domination by the state and those in power exemplified by acts under the Third Reich. "Theirs is not to question why; theirs is hut to do and die" is now being challenged even by armies. As members of a profession intended to show the utmost compassion, we of all people, must not permit might to prevail over right.

Journal of Medical Ethics

The *Journal of Medical Ethics* is published by the BMJ Publishing Group for the **Institute of Medical Ethics** in England. The Tnstitute has the following aims:

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We desperately need a similar body in India. Shall we make a start? *(Please* see page *9)*