

The medical profession and human rights

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One of modern civilisation's achievements is the realisation and dissemination of the knowledge that the rights to life, liberty and security of person are primary, inherent and inalienable to every human being, irrespective of race, nationality, economic status or other man-made discriminations. The universal declaration of human rights (article 3) of 1948 and article 21 of the Indian Constitution recognise these rights as fundamental rights.

Modern human rights, born in the aftermath of the second world war and crystallised in the universal declaration of human rights of 1948, reflect a broader societal approach to the complex problem of human well-being. The implicit question behind the modern human rights movement is: "what are the societal (and particularly governmental) roles and responsibilities to help promote individual and collective well-being?" This form of the question leads to a specific list of actions that governments should not do (discriminate, torture, imprison under inhumane conditions, interfere with the free flow of information, invade privacy, prevent associative life in society) and basic minimum that governments should ensure for all (elementary education, housing, food, medical care).

War crimes and medical professionals

Fifty years ago in Nuremberg, Germany (25/10/46 - 20/8/47), 23 physicians and scientists stood trial for war crimes committed before and during the second world war. They were accused

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of inflicting a range of vile and lethal procedures on vulnerable populations and inmates of concentration camps from 1933-45.

The medical experiments conducted by them, listed under the heading of 'crimes conducted in the guise of scientific research', include exposing human beings to high altitudes, freezing them, infecting them with malaria, epidemic jaundice, typhus, mustard gas, sulfanilamide, other drugs and poisons, and 'observing' bone, muscle and nerve regeneration and bone transplantation, sea water experiments, sterilisation experiments, incendiary bomb experiments, skeleton collection of prisoners, crimes of mass extermination and 'euthanasia'.

Fifteen of the twenty accused were found guilty after the trials and of the fifteen, seven were given the death penalty and the remaining were imprisoned.

These trials prompted the drafting of the Nuremberg Code and subsequently the Helsinki Declaration on Human Experimentation was adopted by the World Medical Association (WMA) in 1964.

In 1976, the WMA drafted the Tokyo Declaration which dealt with the role of physicians in treating the prisoners and victims of custodial violence. Also, the UN General Assembly in December 1989 endorsed the resolution 1989/65 adopted by the UN economic and social council, on the prevention of extrajudicial executions and adequate investigation of such executions. (This manual is also known as the model Minnesota protocol for legal investigation of extra-legal, arbitrary and summary executions and model autopsy protocol.)

Human rights in India

Ancient India's political leadership

was dominated by monarchs whose whims decided their subjects rights.

Criminal investigations in the past involved forcing suspects to prove their innocence by undergoing tests of innocence such as dipping their hands into boiling oil or embers.

In British India, the earliest evidence of custodial death was reported in Madras in 1678 when Thomas Savage, a soldier, abused his superior officer and was tied to a cot, bound by the neck and heels. He died.

The governor, Sir William Langhorne, ordered his body to be inspected. John Waldo, surgeon, and Bezaliel Sherman, second surgeon, viewed the body and wrote, 'we under written immediately to assist thereabout said Thomas Savage found him dead and apparent marks of his binding about his neck, which we judge to be the cause of his death.' (*Fort St George consultation, 1678-79 and Madras in the olden times* by J Talboys Wheeler.) the superior officers (a sergeant and a corporal) were sent to England to stand trial for the crime.

Further, when the British system of judiciary and policing was introduced in India, some tribes and castes were notified as 'criminal' and this prejudice was inherited by independent India's police force. When such historical verisimilitudes and historical exegesies blended into the frailties of politicians and bureaucrats of democratic India, the constitutionally guaranteed rights often remained only on paper.

Also, the nascent Indian democracy's viability and resiliency was often tested by traditional practices.

Medical professionals and human rights abuse

In India, military, clandestine security forces and civil police have all been

put in the dock for human rights violations on various occasions.

In many such instances, the autopsy appearances of fatal abuse are no different from those by any other homicide and the confirmation of lethal torture must depend on circumstantial and other corroborative evidence. Certain features may arouse suspicion or provide definite evidence that the death had 'political' overtones. The word 'political' is used here in a wide sense as many abuses of human rights are not directed or condoned by higher levels of government though there is often an indifference on being informed of such activities.

The occurrences of death or sexual/physical abuse while a person is either in the custody of the police, or the inmate of a prison, often creates sociopolitical problems. There is an immediate complaint or rumour of ill-treatment by the relatives or the media. A meticulous autopsy/medical examination is a necessary part of the investigation needed to dispel — or sometimes confirm — allegations that an act of commission or omission on the part of the custodians of the law has led to, or contributed to, a death.

Further, the medical professional may be coerced to take part in the unlawful interrogation of politically inconvenient persons.

There are adequate instances in the recent political history of many countries, where medical science was made into an instrument of political power: a formidable, essential tool in the complete and effective manipulation of totalitarian control. Andrew C Ivy, one of the two American physicians who testified at the Nuremberg trials, wrote in 1949: "What happened to the medical profession in Germany is stern testimony to the fact that acceptance of or even silence before anti-semitism and the rest of the trappings of racism, acquiescence in or even silence before the violation of sacred professional ethics, the service by medical men of any goal but truth

for the service of humanity, can lead to dishonour and crime in which the entire medical profession of a country must in the last analysis be considered an accomplice."

Health and human rights

When the World Health Organisations redefined health as "a state of complete physical, mental and social well-being (World Health Organisation Constitution, in: *Basic Documents*, 36th Edition, Geneva, WHO, 1986), it not only expanded health far beyond medicine, it openly acknowledged the vast accumulated knowledge about the central role of societal determinants of population health.

The discipline of public health has generally ignored the societal roots of health in favour of medical interventions which operate further downstream. For example, public health efforts at preventing and controlling sexually transmitted diseases have focussed on diagnosis and treatment, along with educational programmes, rather than confronting societal inequality or other societal issues as 'essential conditions' underlying the spread of sexually transmitted diseases.

Medical professionals are realising that promoting and protecting human rights may be essential for promoting and protecting health. This insight will be helpful in the evolving approach to population and women's health, drug and alcohol abuse and in the work of HIV/AIDS. Medical professional increasingly recognise that they must deal directly with the underlying societal issues that determine, to the largest extent, who lives and who dies, when and of what.

One offshoot of this line of thinking is the understanding that many erring policemen may be suffering from psychiatric disorders and multiple drug abuse. In such situations, the need of the hour is periodic psychiatric evaluation of custodians of law.

Human rights in medical issues of the next decade

Every kind of trade in human organs by unrelated donors for therapeutic purposes should be banned.

Every person should have access to medicare facilities by qualified medical professionals in the medical systems of their choice.

There must be public discussion of allotment of funds on a priority basis to new medical facilities to cure communicable diseases that will bring down people's morbidities.

A public discussion on state funding of health care facilities in high-tech areas: transplantation surgery, fertilisation techniques in reproductive medicine, and so on, should be commenced.

The rights of terminally ill patients and AIDS patients should be defined.

Human genetic engineering and cloning should be kept under vigilance and control.

Adequate checks should be initiated to monitor whether: biomedical insights grant physicians sudden new explanatory and technological powers, economic trends intensify pressures to rationalise healthcare costs and develop utilitarian strategies. State political forces must directly enlist the medical profession in an agenda of social and economic transformation.

Global News

Doctors as abettors of torture in Turkey. Ten doctors have been suspended by the ethics committee of the Turkish Medical Association for preparing false reports to hide the torture of some teenagers in Manisa in December 1995 and January 1996. An account of the case is given in a 1996 Amnesty International report, "Turkey: Children at Risk of Torture, Death in Custody and 'Disappearance'."

Turkish Daily News June 3, 1998
