



Medical Ethics And Medical Negligence In Ancient India: A Legal Overview

Dr. Mukesh kumar^{a,*},  Vandana Saini^{b,**} 

^a Research supervisor, Assistant Professor, Govt. Law College, Alwar, Raj Rishi Bhartrihari Matsya University, Alwar (India)

^b Research Scholar, Raj Rishi Bhartrihari Matsya University, Alwar (India)

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ABSTRACT

The concept of medicine and medical procedures was very common in ancient India. We know that people got medical treatment from Vaidhya in ancient times. They had adopted the Ayurveda method. Ayurvedic medicine is one of the oldest healing remedies in the world. It was founded around more than 3,000 years ago in India. It is said that Ayurveda is a natural medicine system, that originated in India. The word Ayurveda is denoting the words "Ayur" is a Sanskrit word it means (life) and Veda (science or knowledge). In the present scenario is teaching the Ayurveda how can survive life and how can live life. In another word, we can say that with the help of Ayurveda we can change the lifestyle interventions and get the natural remedies to restore the balance between body, mind, spirit, and environment. It is important to factor of Medical ethics and medical negligence for the relation between doctors and patients. If the doctor breaches medical ethics and commit negligence then the patient lost his life. It is very dangerous for Patients' life. With the help of this research paper, I will discuss the impact of medical ethics and medical negligence on society from ancient to the present scenarios. And what are the legal remedies are available in India.

1. Introduction

In ancient India, it was a very common concept of Medicine and Medical procedures. India had a well-developed Ayurveda medical system. It is known as the science of Ayurveda. Many holy books provide information about the treatment of Human beings and other living creatures. Now the question arises that why we can say Ayurvedic Chikitsa. Ayurvedic Chikitsa is said to be a permanent solution to Chronic disease. There was treatment by the herbs. Dhanvantri is considered a descriptive deity of Ayurveda. Lord Dhanvantri has emerged as the authority of Ayurveda. Lord Dhanvantri has emerged as the authority of Ayurveda. One of the oldest Vedic texts (including Rigveda, Yajurveda, Samaveda and Adharvaveda), Rigveda Sanhita is the only major collection, the other two being taken from it. According to Rigveda, Rudra was the best doctor with Indra as the protector and protector of health. Notable works of medical science in ancient India were Charak Sanhita, Sushruta Sanhita and Vagbhata. Sushruta Sanhita, an expert in the field of medical surgery in India, referred to Sage Sushruta, the first of whom was named about 600 B.C. (G.N. You can do it.). The Manusmriti later set out comprehensive measures to protect the common man from indifferent Doctors. The penalties imposed by the king in cases of physician negligence vary depending on the severity of the doctor's termination and all other appropriate conditions are considered. In both the fines of Yajnavalkya Smriti and Vihsnu Smriti were imposed on improper treatment. The punishments imposed were based on personal or human suffering. Sushruta sanhita says the doctor must get the king's permission before he can start treatment. One would not be able to get job training

without proper training. Practical training had to be done in a variety of ways for the purpose of learning so that the practitioner would not exercise human bodies. According to Charak Sanhita, a physician should have the ability to write, experience, purity and ingenuity.

Disease and disease have plagued mankind for centuries. Man's efforts to find a cure for the disease have contributed to the evolution of society since ancient times. Medical research has led to the development of human awareness, emergence and successive civilizations.

History of medical ethics in Ancient India

The practice of medicine that is thought to be Indian or imported from India and originated in Indian culture is known as the traditional Indian medicine. It is well known that ancient India played an important role in the development of medicine, especially in medical ethics and surgical training methods. However, some 3000 years later, the medical world is increasingly concerned with the rust of long-held value systems and medical magic codes. In this age of massive technological advances and new technologies, the influence and power of unscrupulous materialism and unruly trade are growing exponentially. In the face of serious threats to the availability of appropriate and advanced medical procedures for people around the world, relying on India's ancient strategies- particularly ethics and surgical procedures - may seem to work.

One of blogger writer Mr. Charlotte Zaidi has been written a post on his blogger about "The history of medical ethics" and describes what is the medical ethics. He had written that "On the 20th of August 1947, 16 German physicians were found guilty of heinous crimes against humanity." During

* Corresponding author

E-mail: Mukeshmeena9192@gmail.com (Dr. Mukesh kumar).

E-mail: Vandanasaini001@gmail.com (Vandana Saini).

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 <https://orcid.org/0000-0002-2907-7058>

 <https://orcid.org/0000-0003-2849-8149>



the Second World War, these Nazi doctors had conducted pseudoscientific medical experiments upon concentration camp prisoners. Though the nature of their crimes was undeniably impermissible, the doctors' defence argued that their experiments were not so different from others that had been conducted prior to the war.

Role of Ayurveda to development of Medical treatment

The origin of Ayurveda goes back to the Vedic era. Many health and disease related items are found in Atharva veda. Historians say that Ayurveda is part of the Atharva Veda. However Rig Veda which is the first Veda also talks about diseases and medicinal plants. At Athrava veda there are psalms about trees such as Accorus calamus and Phylanthus Embelia. The formal route of Ayurveda dates back to the pre-historic Rishi Conference held on the lower hills of the Himalayan Mountains. The first paid document in Ayurveda is Charaka Sanhita. Sushruta sanhita is another compiled document. The Sushruta tradition is said to have declined and spread by Dhanvantari and the Charaka tradition was practiced in Atria. Sushruta School is governed by surgical procedures and procedures while Charaka Sanhita specializes in internal medicine. Charaka Sanhita also mentions the names of the first Athenian students such as Agnivesh, Bela, Jatukarna, Parashar, Harita and Ksharpani and made their own contracts in the field of internal medicine. Of these six, Charaka Sanhita and Bela Sanhita are available in the original form today, however, the Harita Sanhita is also available, but its authenticity is questionable. Many of the manuscripts were lost as a result of foreign invasions, which led to a dramatic reversal of this ancient knowledge of life.^[1]

What was the Concept of Medical treatment in ancient India?

More than 4000 to 5000 years ago, they lived in the Indus valley, the Dravidian people who built large cities, such as Harappa, Mohenjo-Daro and Lothal, and where there was a medical system that used Ayurvedic materials and vessels. These people had a very good culture, with very advanced agriculture and trade. The origins of Yoga also existed in this civilization. About 1500 B.C., this civilization disappeared, after it helped the Aryan invasion of the Vedas.

Medical Ethics and Medical Negligence

Concept of Medical Ethics

In order to get the sense of professional negligence from there to medical negligence, it is important to understand the meaning of the word 'work', especially in the current context of medical and legal conflict. The Oxford Advanced Learner's Dictionary defines 'Professional' as a profession especially one that requires higher education and training and education and the type of work done by a professional is very special and therefore requires more intellect than physical activity. The same principle differs from 'work' to that of 'work'.

It is said that the medical practitioner is a respectful and noble profession in India and other countries. Medical practitioners are treated equivalent to Gods in Indian culture because they are saving the lives of people and other living creatures. But it is very sad that due to the negligence of medical practitioners many patients getting death and many patients suffer serious illnesses. When the medical practitioner is doing treatment of patients it is a professional and moral duty that he is extremely careful. If he has not proper attention then it may cost the patient his life.^[2]

Concept of Medical Negligence

The "medical negligence" term is not defined under any Indian Law. In simple way, while treatment of patients the doctors are not pay attention properly is called medical negligence. When a doctor treats his patient, he is expected to use a standard of care for the patient. Failure to apply this level of patient care has been termed "medical negligence." What is this level of care that can be misunderstood when we understand medical negligence as serious? Sometimes, negligence is overlooked that it does not affect the patient and sometimes it is worse which hurts the patient the most. Therefore, it is important to deal with it legally.^[3]

Reason of Medical negligence in ancient India

There were a many reasons for medical negligence in ancient India details given below.....

1. Lack of Professional Knowledge
2. Poverty
3. Lack of professional institutional
4. Misdiagnosis
5. Usage & other social evils

1. Lack of professional knowledge

Due to lack of professional knowledge about the medicine and other important equipment that's why many times suffer the patients have happened causalities. It was also unexpected medical negligence. Because no one had got professional knowledge at that time. Treatment was dependent only on practical knowledge about the herbs.

2. Poverty

We know that India is an agricultural country and due to a lack of cash money people were unable to get treatment properly. Many times people suffer by illness due to lack of money.

3. Lack of professional institutional

There was no professional institution for medical education in ancient India. In Manusmriti (800 CB-600BC), there are explicit verses pertaining to medical Negligence. Manusmriti dictates comprehensive measures for safeguarding the sick person from imprudent and irresponsible physicians.^[4] Similarly, Yajnavalkya Smriti (300 AD - 100 BC) and Vishnu Smriti also advocated fines or compensation for improper medical treatment. Like the Manusmriti, it also states that the order or sentence amount should be determined based on whether the victim is an animal or a person.^[5]

4. Misdiagnosis

Misdiagnosis is defined as a misdiagnosis of a disease or condition. It is a wrong conclusion about a disease. A decision a patient has or does not have of a particular illness or condition, when in fact they have a different one or no. Every day, people place their lives in the hands of medical professionals. Their health hangs in the balance. In most cases, procedures are performed correctly, medical judgment is targeted, and the patient walks away feeling better and hoping for a full recovery. If we are analyse in ancient time then no machine aviliable for diagnosis to illness. It was depended only vaidh (Physician) conclusion. If we analyzing of ancient times then no machine available for the diagnosis of illness. It was depended only Vaidh (Physician) conclusion. Then many time conclusions would have been wrong.

5. Usage & other social evils

Due to some social evils, people do not go to the hospital in maternity cases and other diseases related to women. There was a practice of purdah in ancient India, due to which people do not take women to the hospital for treatment. Consequently, women do not get proper treatment. In many cases, women get suffered death.

Medical Negligence in present scenario

In the present scenario, people want to earn a lot of money and gather amenities, and people move to earn money illegally. If a doctor does any unwanted operations and treatment for the patients then the ethics for the profession gets violated. Then we can say that they have committed crimes.

Role of Legislature to Stop Medical Negligence

Indian Legislature time to time frame Law (Act) for stop crime. There are many laws exist to stop medical negligence in India. Details are given below:

- The Indian Penal Code is a basic law under consideration different provisions of penalties under different categories of crimes committed in India. Other categories related to medicine reckless laws in India from IPC Section 52, Section 80, Section 81, Section 83, Section 90, Section 91, Section 92, Section 304-A, Article 337, Article 338.
- Under Civil Procedure Code (C.P.C.) the Patients file the suits
- Under Criminal Procedure Code (Cr.P.C.) the Patients file Complaint for negligence.
- Under the Consumer Protection Act also file the complaint.
- The Medical Council of India makes rules & regulations for the stop medical negligence.

Role of Judiciary to Stop Medical Negligence

In the present scenario, the Indian Judiciary plays a key role to stop all types of crime in India. If the violation of fundamental rights then High Court under article 226 and Supreme Court under article 32 also provide the protection. In case medical negligence happened then Judiciary provide the protection under article 21. It is Fundamental rights of all citizens of India.

We can define the negligence “when the medical practitioner falls short of the slandered of reasonable treatment and medical care”. The three essential elements of medical negligence are:

1. The respondent is responsible for the care of the complainant.
2. There is a breach of this duty by the defendant.
3. Plaintiff is injured as a result of this violation.

The term ‘medical negligence’ refers to misconduct or omission by professionals in the medical field, in the pursuit of their profession, while dealing with patients. The term ‘medical negligence’ is not

defined in any of India’s established laws or regulations.^[6]

Important and landmarks judgements

Laxman Thamappa Kotgiri v. G.M. Central Railway and Others^[7]

In a landmark decision the Supreme Court granted the rights of consumers to railway workers while receiving free medical treatment at the railway hospital.

Bandhua Mukti Morcha v. Union of India^[8]

Article 21 of the Indian Constitution guarantees protection of life and personal liberty to every Indian citizen. The Supreme Court ruled that the right to life in human dignity, as stated in Article 21, is derived from the Directive Principles of State Policy (DPSP), which is why it includes ‘protection of life’.

Indian Medical Association v. V.P. Shantha and Others^[9]

In this landmark judgement, the Supreme Court has laid down special guidelines related to medical negligence and defined efficiency of consumer protection.

Conclusion & Suggestions

Medicine which is one of the noblest professions requires setting a realm that can benefit the victims of various diseases. Many doctors sometimes neglect small things during the treatment of patients. Consequently damages to the patients. It is not to say that doctors are negligent or irresponsible. But while performing the duty pay attention properly to his patients. Due to some unwanted reasons often many practitioners fail or breach their responsibility towards the patient. because lack of patience and care is the most reason.

There are some suggestions to stop medical negligence

1. Stop misdiagnosis ratio with the help of skilled medical practitioner.
2. Stop unnecessary or incorrect surgery or money making surgery.
3. Stop premature discharge from the hospitals.
4. Government need to provide free treatment to every citizen.
5. Stop leaving things inside the patient’s body after surgery.
6. Stop leaving things inside the patient’s body after surgery due to negligence and unwanted reasons.

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