

Chapter 10

The Idea of Human Rights in Conditions of Hospital Treatment

Bogusław Sygit

University of Łódź, Poland

Damian Wąsik

Nicolaus Copernicus University in Torun, Collegium Medicum in Bydgoszcz, Poland

ABSTRACT

The aim of this chapter is describing of the influence of universal human rights and civil liberties on the formation of standards for hospital care. The authors present definition of the right to life and the right to health. Moreover in the section it is discussed modern standards of hospital treatment under the provisions of the International Covenant on Economic, Social and Cultural Rights: availability, accessibility, acceptability and quality. The authors discuss in detail about selected examples realization of human rights in the treatment of hospital and forms of their violation. During the presentation of these issues, the authors analyze a provisions of the International Covenant on Civil and Political Rights and European Convention on the Protection of Human Rights and Fundamental Freedoms and use a number of judgments of the European Court of Human Rights issued in matters concerning human rights abuses in the course of treatment and hospitalization.

INTRODUCTION

The Right to Health in the System of Human Rights

The human rights is defined as a “minimum standards of legal, civil and political freedoms which guarantee dignity to people” and “the elementary, natural and inalienable rights attributed to all on account of their existence as human beings” (W. Kirch, 2008). Added that “the human rights represent the institutionalized legal, philosophical, political and moral considerations about the inherent dignity and equal rights all human beings are entitled to and which the state has to respect and protect”. Moreover

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“the human rights aim to provide individuals with the basic personal, political and property rights as well as the basic freedoms” (G. Grabowska, 2014).

Human rights constitute the direct consequence of the dignity of the human person – common and inherent - granted to all citizens. The necessity of respect for and guarantee of the human dignity underlies the actions taken by countries and international organizations as well as it is confirmed and properly guaranteed in their law systems. Protecting the dignity of the human person a country has to provide its citizens with proper life conditions, both material (nourishment, clothes, accommodation, treatment) and mental (education, helping out in illness and misery, active involvement in society) (G. Grabowska, 2014; A. Zieliński, 2003).

The right to help is an important value resulting from human rights. On the basis of its degree of achievement, the development of rule of law standards (C. Byk, 2000, K. Prokop 2011).

The right to health is inseparably connected with the aforementioned dignity of the human person. The dignity of the human person is the right and fundamental value which is not dependent on their health condition, membership of particular organizations and political groups, wealth, poverty, etc. It is emphasized that there are some situations in case of which violation to the social, economic, cultural (the right to food, water or health care) rights decreases the standard of a human and his family's life to such a degree that it leads to humiliation, causes dehumanization and sense of helplessness, and deprives of dignity (G. Grabowska, 2014).

The close relations between health and human rights may be proved by indicating the negative consequences of a damage to health that appear in the field of protection of fundamental human rights. First, human rights violations can directly affect health: for example, torture, slavery, violence against woman and children and harmful traditional practices. Secondly, the promotion of human rights, in particular those connected to the social determinants of health, for example rights to education, to food and nutrition, shelter and employment, lead to reduced vulnerability to ill health and promote health. Thirdly, health development can involve promotion of violation of human rights depending on how it affects right such as the right to participation, freedom from discrimination, right to information and right to privacy (A. Tacket, 2012). There is a reciprocal impact of health and human rights. The promotion, protection, restriction or violations of human rights have direct and indirect impacts on health and wellbeing, in the short, medium and long term (J. Cohen, T. Ezer, 2013).

The right to health is considered to be one of the most important human rights which is reflected in many sources of international law.

The special attention deserves The Universal Declaration of Human Rights from 1948 and the Article 25(1) according to which: everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. In bibliography one may find the opinion that The Universal Declaration of Human Rights only mentions the word “health” once, yet to a health professional, the entire document is full of health-related messages and meaning. So much so that a new health and human rights movement is now under way, exploring the many vital consequences which flow from recognizing that health and human rights are inextricably connected (J. Mann, 1998).

Sometimes the right to health stated in The Universal Declaration of Human Rights is connected with the right to educate which is stated in the Article 26(1) of this Act. The Universal Declaration of Human

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