A right step towards health for all

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Representative image. Credit: Getty Images

The Rajasthan Right to Health Care Act, passed by the Rajasthan State Legislative Assembly on March 21, 2023, draws attention to the issue of patients' rights to healthcare, which rarely features in public debates. With the goal of ensuring 'health for all', and, conversely, no denial of healthcare to any citizen, the Act proposes to legally define collective and individual rights in healthcare, constitute state and district authorities, and institute grievance redressal and social accountability mechanisms. In a calibrated move, the Act also details the rights of doctors and health care providers while laying down the duties of both doctors and the government.

A physician's sacred duty to alleviate suffering, as reflected in the Hippocratic oath, dating back to the 5th century BCE, placed the doctor-patient relationship on an ethical and moral plane.

Paul Starr, in The Social Transformation of American Medicine, explains how industrialisation of medicine had repercussions on this relationship. He traces this transition from caregiving in a personalised-sacred domain to the lucrative corporate business locked to businesses, including pharmaceuticals, medical education, instrumentation, clinical trials, and research.

The patient at the centre of it remained powerless and, often, a victim of this power structure.

This relationship changed radically post-World War II when industrialised allopathic medicine became the mainstay and integral to nation-building. Speed, intensity, and scale obliterated personalised doctor-patient relationships, last seen in the concept of the family doctor or a stream of medicine called family medicine. We see this phenomenon in India typified by physicians who have primarily attained the status of professional healthcare service providers in institutions often organised as large business entities. Most of them work as 'consultants' in several commercial hospitals simultaneously. Some continue as 'employees' or 'resident doctors' in public hospitals, perceived as a stepping stone to becoming specialist consultants. Even in single-doctor clinics, healthcare is reduced to a paid service.

In this corporate-institutional model of allopathic medicine, patient vulnerability is high. The emphasis on an institutionalised mode of protecting patients' rights has become imperative as demanded by citizens globally. From the patient's point of view, therefore, this Act fulfils the historical void of protecting patient rights in India.

At a fundamental level, guaranteeing a set of entitlements for those receiving medical care can be construed as patients' rights. In some countries, such as the US, the American Medical Association itself has provided a charter of patient rights. But in India, even codifying patient rights has been a challenge. As it stands today, an aggrieved patient has the option of resorting to professional medical councils, a consumer forum (a quasi-judicial body), or a civil court (in some instances) for medical negligence, especially in the case of a paid medical service.

However, the onus of proving and bearing the litigation costs is prohibitive and few succeed in pursuing these mechanisms, as it is practically impossible to garner proof or fight a prolonged legal battle. In a historic move in 2018, the National Human Rights Commission, based on consistent jurisprudence, codified 17 patient rights into a Charter of Patients. These include the right to patient records, emergency medical care, informed consent, a second opinion, and the right to be heard and seek redress. The Act has expanded this to 20 rights. It delineates steps and mechanisms to protect patient rights, including time-bound commitments by the government, social audit and grievance redressal mechanisms, strengthening and streamlining the health system, notifying standards for quality and safety and the government's commitment to supplement these with adequate financial resources.

As the Chief Minister of Rajasthan has acknowledged, despite schemes guaranteeing services, hospitals never stopped finding ways to overcharge patients, thus defeating the very purpose of these schemes.

The state needs to address healthcare providers' fears and anxieties. The demand for repealing the Act would be tantamount to thwarting patient rights, in what is the first attempt in India at protecting them. The rights of doctors and patients can both be best protected if doctors show ethical sensitivity in their profession and magnanimity to champion patient rights.

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