

PREFACE

The World Health Organization describes health as a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity. The aim is to help all citizens of the world to attain a level of health that will permit them to lead a socially and economically productive life. For the achievement of highest attainable standard of health as provided in the definition of health by World Health Organization, it is essential that healthcare must be accessible in care, services or supplies related to the health of an individual including those of coverage, accessibility, cost, accountability, and quality of health care. In a nutshell, healthcare connotes economics of healthcare delivery, public policy and healthcare regulation, and bioethics. Thus, the delivery of healthcare comprises both provider and patient's rights, the latter being open to frequent abuses by healthcare providers.

Over the last few decades there is an increasing trend to attribute healthcare against the backdrop of human rights law. This is basically because there is an increasing recognition of the general public in the values inherent in fundamental human rights, such as notions of respect for the individual and for self-determination, on which the rights of patients are founded. Protecting the dignity and integrity of the patient as a person, is particularly important as the vulnerability of the sick makes them easily subject to violations of their rights. The value of human rights in medicine can be better understood if we understand the unique relationship between doctor and patient which has an imbalance of power at its core.

Interestingly, the physician's responsibility is not just restricted to providing medical treatment to the patient but it also involves healing the sufferer. For complete healing to take place, a trusting emotional relationship between patient and doctor is of overriding importance. A trusting emotional relationship can never be developed if the relationship is perceived as one-sided i.e., when the physician gives and the patient takes. So, to ensure the balance of power in the relationship, it is absolutely vital for the patient to be aware of their rights.

This thesis is a sincere effort in understanding the rights of patients in a broader framework encompassing both individual and social rights. I have made an attempt to outline what the current law is, why it is the way it is, as medicine brings with it specific emotive and moral complications. The thesis concludes with suggestions for a law in India keeping in view the ethical principles such as autonomy, beneficence, sanctity of life, dignity of the human person which has a greater role in reaffirming rights of patients.

During my research period I was blessed to have a number of people around me without whose blessings and support I could not have finished my research work. I feel that they surely deserve my appreciation, which of course is impossible to be confined in few words.

First and foremost I would like to express my deep and sincere gratitude to my research supervisor Dr. Sheeba Pillai, Assistant Professor, School of Indian Legal Thought, Kottayam. I am grateful to her for agreeing to guide me as a research scholar and also for providing me with the intellectual engagement and encouragement needed to finish this work. The help and support which I received from her at different stages of my research is beyond words.

Acknowledgements are also due to Dr. M C Pramodan, Associate Professor, School of Indian Legal Thought, Kottayam for his guidance and support in the initial stages of my research.

I wish to thank Dr. George Joseph, the Head of the Department, School of Indian Legal Thought, Kottayam for his help and support in completing my research work.

I am greatly indebted to Dr. Rajeesh AP, Assistant Professor, School of Indian Legal Thought, Kottayam for his valuable comments and suggestions which to a large extent has helped me in shaping this work. He deserves a lot more than a few words of gratitude.

I owe my most sincere gratitude to Prof. (Dr.) V.D. Sebastian, Cooperative Law School, Thodupuzha and Dr. Jayaram ER, Associate Professor, Cooperative Law School, Thodupuzha. I would like to thank them not only for their valuable suggestions and opinions throughout my research period but, also for their

reassuring words of wisdom when I lost interest and for their moral support when I was worried.

I would like to make a special mention of the encouragement and access to several research materials which I received from Dr. Gigi PV, Assistant Professor, School of Indian Legal Thought, Kottayam.

I thankfully acknowledge the help and encouragement extended by Mr. Prakash G, Deputy Registrar, MG University, Kottayam, Mrs. Celina Beegum TA, Roneo Operator, MG University, Kottayam and Mrs. Archana AK, Research Fellow, School of Letters, MG University, Kottayam.

My sincere thanks are due to Mr. Shibu MP, Technical Assistant, MG University, Kottayam, Mrs. Sini EM, Librarian, School of Indian Legal Thought, Kottayam and Mrs. Anupa Aneesh, Assistant Librarian, School of Indian Legal Thought for helping me in acquiring many materials relevant to my research area.

I express my sincere thanks to all the teachers, staff, fellow researchers and my friends at the School of Indian Legal Thought for their inspiration and encouragement.

Last but not the least, I take this opportunity to express my gratitude and credit for this research work to my dad and mom who have together relentlessly supported and stood by me. Without their whole-hearted support and encouragement it would have been impossible for me to complete this long and extremely challenging work.

Finally, without the blessings of God Almighty this work would have never been completed. I express my gratitude to one and all.

Deepti U