

Patient's Rights in Turkey

Nüket ORNEK BUKEN*, Erhan BUKEN**

* M.D., Ph.D., Department of Deontology and Medical Ethics,
Hacettepe University Faculty of Medicine, Ankara-Turkey.

**M.D., Department of Forensic Medicine, Medical Faculty of
Baskent University, Ankara-Turkey.
e-mail: nuketbuken@hotmail.com

Summary

Although the subject of patient rights has risen higher on the agenda worldwide for the last 20 years, unfortunately in Turkey it has only been discussed in relation to physician errors. The scope and contents of patient rights have been established with national and international documents and with the World Physicians Association Patients Rights Declaration (Lisbon, Bali and Amsterdam Declarations) for all nations in the world. While previously patient rights were protected only by standards of medical ethics they have now been enshrined in legal regulations. Many countries have begun to complete their own legal regulations. The Turkish Physicians Association and patient rights groups have come together with interested public agencies to support the development of these legal regulations. The Health Ministry of the Turkish Republic published the Patient's Bill of Rights in 1998.

Key Words; Patient Rights, Legal Regulations, Medical Ethics.

Introduction

Health policies and the institutionalization of health in countries throughout history have taken the form of political and economic conditions of societies, social structures, value systems, and social change and needs in health conditions. Turkish health policy and its institutionalization, however, have arisen as a component of the social government understanding. Health care services, that are a basic indicator of social and economic development in Turkey as in the rest of the world, continue to gain in importance. The duty for meeting requests for health care services in Turkey and ensuring that everyone can live in a healthy and balanced environment and can benefit equally and in the best manner from health care services was made a responsibility of the government in the constitution and the planning and running of health care facilities was provided for by the government alone. Although the health care sector management has many administrative centers, most of the activities occur in public institutions and the Health Ministry has the largest part in the providing for and financing of services in the sector. Social Insurance Institute General Directorate and National Defense Ministry follow this. This structure is exces-

sively bureaucratic and creates a fragmented management style with the result being a lack of coordination between institutions (1,2).

It is well known that the health care system is constantly changing. Since the founding of the Republic, health and health care services have been given priority in the government and effort has been made in every term to improve health care services and the health care system. However in spite of all the effort and work that have been done the health care services have still not come up to the desired place. The health care services in Turkey show important variety both in service supply and service demand. While primary and secondary health care services are provided by different institutions in the private and public sectors, individuals that make up the society as recipients of service are divided into two parts, those who have health insurance and those who do not.

It is possible to say that the problem of poverty reaching terrible dimensions together with globalization effects patient rights that have come to be known as "third generation human rights." Social and economic rights together with patient rights are being abused throughout the world in both normative regu-

lations and in efforts directed at protecting basic rights. According to the results of factual studies regarding social and economic rights, the injustice in distribution of income has reached nonsensical proportions. Poverty is the primary reason for the abuse of human rights in the world. The goal "health for all" in the year 2000 was proposed to government leaders by international institutions. Whatever there is there has not been any clear improvement on this subject. The role of the private sector in the health area is continuing to increase and the subjects of "equity" and "allocation of resources" are being argued about even more (2-4).

Patient rights issue is one of the issues which is relatively known less in our country and it is often recalled when speculative physician faults that cause death or disability occur. In the last few years in Turkey the subject of patient rights has become an increasingly common topic of discussion, raising a series of shared concerns. First is the increasing role of the free market, with its emphasis on making a profit from health services. The excesses of the market often fail to respect humanitarian values in health services. Patients find that they are treated with scant respect, and remedies (including legal ones) are ineffective. The result is that those who need health services fail to use health care facilities and rendered powerless. There is a widespread agreement about the need to strengthen and protect the rights of patients in their interactions with health professionals as well as to help patients take a more active role in health care, informing patients about their rights when accessing health services. Arising from these discussions, it has become clear that existing ethical sanctions are inadequate and need to be replaced with legal sanctions (1-4).

A Patient's Bill of Rights

This bill, which reflects basic human rights in the health care arena and is accepted at the basis of the Constitution of the Turkish Republic and in other regulations and international legal texts, and which shows patient rights in a tangible manner and includes all institutions and establishments that give health services or in which health care is given, was prepared for the purpose of preparing methods and principles that would provide for everyone to be able

to assume their rights as patients, to be protected from rights abuses, and, when necessary, to be able to actually use legal methods for protection, in a way that considers human dignity (4).

In the new law, patient rights are defined as "the rights of individuals who have a need for health care services, which are guaranteed to all because they are a person under the Constitution of the Turkish Republic, international treaties, laws and other regulations (4,5).

The principles that must be complied with in offering health care services have been defined. According to the bylaws they are the following (5):

- The most basic human right which is the right to life in the best condition possible from physical, psychological and social aspects is continually taken into consideration at every phase of care.
- Everyone is endowed with the right to life, and for protection and development physically and spiritually and no recourse or person has the authority to knowingly deny these rights in the humane treatment of patients.
- In providing health care services, no distinction is made because of the patient's race, language, religion and creed, sex, political opinion, philosophic beliefs and economic and social situation. Health services are organized so that everyone has easy access.
- Other than situations of medical necessity and situations specified in the laws an individual who is not willing has the right to not be touched anywhere on the body and other personal rights.
- An individual cannot be used as a research subject without voluntary permission from the individual and the Ministry.
- Other than medical necessity and situations allowed by law, a patient's private life and family life must be kept confidential (5).

The primary reason for patient rights to be discussed in our country are physician errors, for this reason they are not evaluated realistically. However patient rights are rights in which the patient and providers of health care are not in conflict with the

receivers but where it is necessary for both sides to take ownership. This understanding has not been adequately developed in our country, patients generally develop "seeking rights behavior" when there is a medical error. The legal basis for patient rights in our country is quite old, the basic text on this subject is in the 1961 dated Medical Ethics Code. The Patients Bill of Rights which was published in the official gazete and became valid on August 1, 1998, is a more recent step taken on the subject of patient rights. In the last section of these bylaws a place was provided to explain the legal ramifications of situations where patient rights are violated. Work towards effective supervision mechanisms, clear policies for patients to be able to easily seek their rights, provision of information to patients and their next of kin about rights, continuing education to provide health care personnel professional information and skills, technical support and internal supervision mechanisms on this subject all need to be established (5,6).

The Development of Patient's Rights in Turkey

Attention to patient's rights is very new in Turkey. The first and only organization for the protection of patient's rights, (Organization of Patients' and Patients' Relatives' Rights) was established in 1997. This is a citizens' group that works to raise popular awareness about this issue among patients and their relatives. In addition the Turkish Bioethics Association has been working since its foundation in 1995 to promote this issue. The participation of the Turkish Physicians Association in this process has been very important.

The Need for Greater Emphasis on Patient's Rights

Regrettably, the "right to life" and the "right to a healthy life" are not ensured for all Turkish citizens. The majority is not satisfied with the ability of the health care system to protect their health or their experience when using it. Individuals frequently find that their rights are ignored. One reason is the intrinsic weakness of the health care system. However an important factor is insufficient knowledge about rights by individual patients and health care professionals.

Almost everyone who seeks health care at either public or private health care institutions complains about and criticizes the care they receive at these institutions and is revolting against the deficiencies. With every passing day the government who has been endowed with the duty to carry out many articles in the Constitution that deal with physical and emotional health for all and enacts distant health policies to accomplish this while accepting painful truths without a sound and blaming fate for the problems that are experienced is finding it more and more difficult to just condone them.

In Turkey the health care system involves a set of relationships between the government, patients and health care personnel. Yet, when patient's rights are mentioned, the government is removed from the equation so that staff and patients must confront the issue. The failure by the government to establish and maintain basic health care services is an important factor in hindering patients from obtaining their rights (1,3).

Basic Health Standards in Turkey

The size of the problem can be seen from a review of basic health outcomes in Turkey, where deaths in childhood and infancy are much higher than in the rest of Europe, and worse than might be expected from Turkey's level of economic development. The Turkish health care system has failed to rise to this challenge. Patient's rights cannot be seen in isolation. It is difficult to tell physicians to observe the rights of patients when they have had their own personal rights abused, when specialty training has been shortened and when they face economic difficulties (1-4).

The Child Death Rate in Turkey is 47 per 1000. The same rate varies between 5 and 10 per 1000 in other European countries. When Turkey is compared with other countries at the same national income level the child death rate is not 47 per 1000 but at the highest is 30 per 1000. The poor performance is evaluated by UNICEF as a difference of -17 points. That means that from the viewpoint of Turkey's health indicator a poor performance is exhibited among countries. The reason for a poor performance however results from a cumbersome management structure that is not in the correct form to be able to be utilized for national income even. Examples of these poor

indicators go on for pages. By making serious corrections in the health care system that need to be done and by examining the laws related primarily to poor indicators and on the subject of patient rights, it is being put in order again.

In addition to protecting patient rights from the point of view in our country there is another important subject that is the necessity to protect the rights of health care workers. It is difficult to tell physicians to observe the rights of patients when the physicians have had their own personal rights abused, when the required service after graduation and specialty training has been shortened and when they are in economic difficulties. Physicians, who are condemned to work for an average \$500 a month, are forced to work part-time and open physician offices in addition to their government jobs. The majority of physicians turn to outside work. In addition working part time is one of the important factors for the development of a decrease in the quality of service provided in public institutions and in undesirable relationships between physicians' offices and public institutions. This situation brings about failure to institute and abuse of many articles in the "patient's bill of rights" in many health care facilities (7,8).

Basic Patient Rights in the Patient's Bill of Rights

The Right to Medical Care

In Turkey the right to medical care is protected in the constitution and can be summarized as "Everyone has the right to medical care without discrimination. The 17th article of the Constitution of the Turkish Republic states that "everyone has the right to life". In the 3rd section and 56th article of the constitution with the heading social and economic rights and duties, a detailed policy related to health rights is presented. The government is designed to single-handedly plan health care institutions for the purpose of ensuring physical and emotional health in everyone's life and achieving cooperation in the giving of health care. Although it is good that the right to health care is protected in the constitution, it is important to note that only 30% of the Turkish population is covered by social security (7-9).

The right to health care must also be seen in the light of the regional and social inequalities in access to health care services. These inequalities have increased in the last 10 years under the influence of the free market. An important obstacle to achieving the right to health is the non-functioning of public institutions, in particular the Social Security Institution, with even those who have social security being forced to seek health care (7,9).

The Right to be Informed

At the beginning of patient rights is **the right to be informed** which is defined as "patients are completely informed about the medical realities of their condition, every recommended treatment's potential risks and benefits, alternatives to the recommended treatment, diagnosis and prognosis" and it is necessary for physicians to set aside sufficient time with their patients to fulfill this right. When one considers that 5-10 minutes are allowed for patient examination in the majority of health care institutions in our country it can be said that this right is abused in almost every examination. Although physicians are responsible to their patients, it is the health care service understanding which forces physicians to work in conditions like this, which is the real abuser of patient rights (4,5).

The short duration of consultations in most facilities means that few patients are adequately informed about the choices they face. Although physicians must take some responsibility, it is the health service that forces physicians to work in these conditions that is the real abuser of patient rights. In addition to the right to be informed, rights such as ensuring confidentiality and respect for patient's privacy are frequently abused. Yet there are insufficient mechanisms to seek patient rights or to complain. Patients and their families are powerless and are resigned to the problems they face (5,8).

Access to medical records

The 16th Article of the Patient's Bill of Rights states that "The patient may examine papers and records that contain information about his/her health condition directly or by means of a proxy or legal representative and may make a copy. These records

can be only be seen by those who are directly related to the patient's care (5).

Respect for Privacy and Private Life

Article 21 of the Patient's Bill of Rights is based on patient confidentiality and showing respect for patient's confidentiality (5).

Complaint Mechanism for Patients

The people who bear responsibility for this process are clarified in the Patient's Bill of Rights. The 8th Section of the By laws is related to responsibility and methods of legal protection. Article 42 says "Patients and those with patients have the right to recourse, complaint, and lawsuits within the framework of the regulation in the event of an abuse of patient rights" (5).

Reasons for Abuse of Patient Rights

If it is accepted that the Patients Bill of Rights is a development in our country patients are not aware of the legislation that is in place or their rights. Because of the conditions produced in health care services in our country the abuse of patient rights is frequently experienced, however that is not reflected to the same degree in related positions. When the reasons for patient rights abuses are examined these reasons can be divided under three headings:

1. Patient-Related Reasons

The main reason for patient related causes of patient rights abuses is the patients' not knowing about their rights. There are many regulations related to patient rights in legal regulations related to health and about how to behave with patients in the contents of ethics regulations however organizing these regulations in a new understanding and bringing them to the forefront is new.

The creation of the new concept of patient rights leads to a knowledge deficit in society about this subject. Patients not only have a knowledge deficit but they also do not know what they can request from health care institutions and personnel. They do not know what authority to notify when they are dissatisfied with health care and how it will get resolved.

There is little information about what they can do to make legal complaint about malpractice and medical treatment that has harmed their health and about compensation that can be made for damages and they have little hope of achieving a positive result at the end of the process.

In addition the traditional feelings of respect and gratitude to the physician and health care institution effect patients' behavior. In fact it is an illusion for many patients to evaluate the quality of the health care that they were able to reach with countless difficulties. This situation creates an obstacle to a societal consciousness on the subject both of patient rights and of precautions that can be taken in the face of medical malpractice. The understanding that the difficulties that come to patients are fate and resignation to whatever is faced are also common attitudes.

2. Health Care Institution and Health Care Personnel-Related Reasons

The reasons related to the health care institution and health care personnel can be classified by different viewpoints. The patient rights abuses by health care personnel can be classified by the "intention" view in this way (10):

- Patient care abuses that occur because of patient overload,
- Patient care abuses that occur because of a knowledge deficit in the personnel,
- Patient care abuses that occur because of errors,
- Patient care abuses that occur deliberately.

When the health care institution and personnel are considered together it is possible to classify them in this way (10):

- Patient intensity,
- Inadequacy of the health care institution's physical capacity,
- Insufficient health care personnel,
- Patient overload,
- Off-shift work systems,
- Patient transfer procedure systems,

- Not attaining the patient centered health care understanding,
- Inadequate technology

During the process of benefitting from the health care system, for patients to be able to receive care from health care institutions they must follow a very confusing path. In particular if their problem is not resolved in a primary care institution they must be transferred by that institution to a secondary care institution. This is called the transfer system. However this transfer system is not functioning in our country. Patients with problems that could be solved in health clinics are being transferred to a hospital, even to a teaching and research hospital, this situation is a reason for the increase in patient intensity in these receiving hospitals. Patient intensity makes it difficult to give care in the manner clarified in the patients' bill of rights, it opens the door to abuse. As an example, a clinic physician who should examine 20 patients in a day is forced to see 50 patients which creates a long line of patients at the examining room door. In fact patients who are ill and who should at least be sitting are forced to stand waiting for hours and the patient's right to receive health care in the minimal care that is stated in the patients bill of rights is abused. The physician, to be able to see all the patients, is forced to limit time spent and interest shown by listening, thoroughly examining patients, giving information, protecting confidentiality, and explaining medications to be used. All of these problems create an environment that abuses many rights such as patient receiving effective health care, informing about institution, personnel and illness, giving informed consent, and protecting confidentiality. It is possible to give many examples, in the current physical-technical-infrastructure conditions it is not possible to achieve "a patient-centered health care understanding" that is stated in the patients' bill of rights (10,11).

3. Health Care System and Financing-Related Reasons

The health care system and health expenses financing system are basic characteristics of how health care will be given. Institutions that give health care in our country are the Health Ministry, National Defense Ministry, Universities and Social Insurance

Institution Hospitals. There is no general health insurance. There are four different public insurance systems including Social Security Organization for Artisans, Craftsmen, Tradesmen and other self-employed workers, Social Insurance Institution, Retirement fund for civil servants and "green card" (looks like Medicare) for the indigent. Again 30% of the population has no health care insurance. The structure and financing of all of these insurance plans are different. In fact the Social Insurance Institution both finances and gives health care. The result of all of this is (10,11):

- Patients' physician and health care institution choices are limited,
- An increase in patient intensity in health care institutions,
- Limiting of possibility of being able to benefit from health care institutions,
- Not being able to receive health care even when many people have a need for it,
- Increase in wasting of resources,
- Going to private physician offices and giving "knife money" (bribes),
- Patients being held hostage at hospitals.

Conclusion

For patients to be able to easily access quality health care services when needed and to be able to regain their health, patient rights, that define the form that ensures that every kind of support is attainable in a way that respects people, are without doubt the basic foundation for the right to healthy living. The health care that will be given to patients with compassion, respect, and interest like it was accepted in the past is not a favor or donation. The support that physicians or other health care workers give to patients is under the protection of national regulations and international agreements which is clearly defined in patient rights. This is a duty, a legal obligation.

Although there has been an increase in interest about the subject of patient's rights in Turkey there remain important problems in protecting patient's rights in health service. Although there is sensitivity

among the general public about patient's rights, patients do not demand their legal rights. The physicians and the patients should not be considered as two groups that are opposite to each other, but they should be thought as groups fight for common interests. This message is tried to be given to the community by medical ethicists, however, the media news, which are negative in nature and resulting in getting physicians oppose to patients, are happening to be more popular. The batch of problems is getting bigger every day, and the unsolvable nature of the matter makes us hopeless (2-4).

There are many problems in the health sector in Turkey today, starting with inadequate financing, failure to use productive and effective resources, unbalanced distribution of employees and health manpower among regions and problems of inadequate coordination and cooperation between institutions and lack of a national health policy. Although the health sector in Turkey has a management with many administrative centers, most of the activities are seen in public institutions and the Health Ministry has the largest part in the providing for and financing of services in the sector. This structure is excessively bureaucratic and creates a fragmented management style and makes coordination between institutions difficult. This lack of coordination in the health sector also leads to gaps in service. If the health care system is managed by doctors and other administrators who have been educated about management that has a democratic and participative structure and if public support and participation is ensured, the portion given to health is increased and importance is given to preventive medicine, Turkey's health indicators will improve (12).

There is an important difference between the health indicators for Turkey, which is a candidate for full membership in the European Union, and European Union countries. To decrease these differences and increase the effectiveness and productivity in health services it is necessary to increase the portion of national income for health, to use this effectively and productively, to ensure cooperation and coordination in the sector, to bring about a balance in

the distribution of personnel who are employed, and most importantly, as soon as possible to create a national health policy (12).

In 2003 Turkey, as with the rest of the world, faces major social, political and economic upheavals. In particular, Turkish citizens face increasing barriers to obtaining care. This is not a good time to promote patients' rights. Patient's rights are one of the most important of the components of health rights that we believe is the fulfillment of basic human rights. It is the duty of every health care worker and medical ethicist in our country to know these rights, request them, and take care to observe, defend and protect them in practice.

REFERENCES

1. Buken NO, Buken E. The Legal and Ethical Aspects of Medical Malpractice in Turkey. *European Journal of Health Law*, June 2003; 10(2): 199-214.
2. Buken NO. Physician Errors Tied to Patient's Rights. In: Sahinoglu S, Arda B, Ozcelikay G, Ozgur E, eds. 3rd Medical Ethics Symposium Proceedings Book. Ankara: Bioethics Society Publication, No: 3, 1998.
3. Buken E, Buken NO. Medical Malpractice and Ethical Viewpoints. In: Arda B, Buken NO, Duman YO, Ozturk H, Sahinoglu S, Yetener M, Yıldız A, Publication Committee. *An Ethical Look at Life*. Ankara: Ankara Medical Society Publications, 2002: 86-112.
4. Erdemir AD, Elcioglu ÖS. *Patient's and Physician's Rights Regarding Medical Ethics*. Ankara: Turkiye Klinikleri Publications, 2000.
5. Official Gazette, Publication Date 08.01.1998, No: 23420.
6. Turkish Medical Deontology Regulation, MoH, 1960.
7. Tokat M. Turkish Health Care Expenditures and Financing in 1997. MoH General Directory of Health Project, 1997: 58.
8. Yıldırım S. Expenditure and Cost Analysis in Health Care Services. Ankara: State Planning Organization's Publication. No:2350, 1994:33-35.
9. Ayan M. *Legal Responsibilities the Arise from Medical Procedures*. Kazancı Publications, 1991.
10. Buken NO, Yegenoglu S. Physician-Industry Relationships and Promotion Ethics in Turkey, *Clinical Research and Regulatory Affairs* 2003; 20(4): 379-389.
11. Büken NO. Turkey's Position Regarding Clinical Drug Trials. *Clinical Research and Regulatory Affairs* 2003; 20(3): 349-355.
12. Can N. The Stuation of Turkish Health Sector in the Integration Process with the European Union. Available at: <http://www.un.org.tr/who/EU/bu6aubirsaglik.HTM>. Accessed June 02, 2003.