

FIGO Human Rights and Women's Health Case 9 Discussion

Denial of dignity

This case highlights the right to be free from torture or cruel, inhuman, or degrading treatment. This right prohibits acts that cause physical or mental suffering and extends to conduct in health care institutions by health care providers. International human rights bodies have recognized that abuses in health care settings, denial of medical care, mistreatment, and violence may rise to the level of torture or cruel, inhuman, or degrading treatment. They have also recognized that abuse and mistreatment of women seeking reproductive health services can cause tremendous and lasting physical and emotional suffering. Examples of such violations include abusive treatment and humiliation; involuntary sterilization; denial of legally available health services such as abortion and postabortion care; female genital mutilation; and violations of medical secrecy and confidentiality in healthcare settings (Center for Reproductive Rights 2010; Méndez 2013).

Learning objectives

For physicians to competently apply this principle to daily practice they must be able to:

- Identify and assist victims of physical, psychological, and sexual violence and abuse, including domestic violence, human trafficking, and rape.
- Describe the effects of locally prevalent harmful practices such as female genital mutilation, early marriage, and polygamy.
- Discuss the harm resulting from denial of medical treatment and from involuntary sterilization.
- Discuss how ethical standards for doctor–patient relationships support standards of medical and surgical care.

Note that although the case highlights the right to be free from inhuman and degrading treatment, it also addresses a variety of other ethical, human rights, and policy issues. Similarly, although the medical issues of the case focus on complications of performing procedures with inadequate anesthesia, the standards of practice are applicable to other situations in which practitioners may impose or relieve pain for patients.

Case study

Doctor D. and Mr. M., the administrator of the hospital where Dr. D. practices, meet to discuss a letter of complaint from a patient who had an abortion in the outpatient surgical clinic 3 months previously. The letter states that the patient was forced to undergo a painful vacuum aspiration of a 10-week pregnancy without anesthesia and that Dr. D. ignored her screams of pain and requests for pain relief.

Dr. D. suspects that Mr. M. shares her belief that far too many women are having abortions. She assumes that he will support her opinion that providing pain relief only encourages these women to have more abortions. Although Dr. D. professes that she



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supports legal and safe abortion, she believes that the current laws make it too easy for women to terminate their pregnancies. Dr. D. considers that a little pain during the procedure discourages women from having unprotected sex.

Mr. M. expresses his disbelief that Dr. D. would purposely withhold pain relief for women undergoing operative surgical procedures. Dr. D. replies, "Only those having abortions, Mr. M. You have to be cruel in order to be kind." She continues, "There is only a little cramping if they lie still on the table. But if they move, they pay the price."

Horrified, Mr. M responds, "Do you mean to say that this woman is not the only one? How many times have you performed this procedure without anesthesia? This former patient of yours claims she has recurrent nightmares and is no longer able to function at work as a result of your cruelty and lack of professionalism. How do you expect the hospital to respond to this complaint?"

Questions for discussion

1. What are the medical issues in this case? Specifically:

a. What measures can be taken to assess and provide pain relief during outpatient surgical procedures?

The surgeon holds the responsibility of making sure that patients are counseled about the options for pain relief and of ensuring that the pain relief will be as effective as possible. Most outpatient surgical procedures are performed with a combination of local anesthetic blocks, analgesics, and sedatives.

For uterine evacuations, whether for pregnancy termination or for completion of missed or partial abortion, the state of dilatation of the cervix is important; more analgesia will be needed if the cervix needs to be dilated. Use of prostaglandins and/or misoprostol is associated with abdominal cramping, which can be relieved with oral analgesics; the resulting softening and dilating of the cervix before the evacuation will ease the procedure.

Manual vacuum aspiration usually can be performed using paracervical block with minimal discomfort. Regional block (spinal or epidural) or general anesthesia may be required for patients who have complications or who are unable to tolerate the procedure with local anesthetic.

b. What are the risks and benefits of providing or not providing pain relief for a patient having a vacuum aspiration of the uterus?

There are no benefits of not providing pain relief.



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The risks of not providing pain relief are technical, emotional, and sociolegal. A patient writhing in pain is unable to lie still, leading to technical difficulties with instrument placement and incomplete evacuation or a surgical mishap such as uterine perforation with the curette or cannula. Incomplete evacuation can lead to prolonged bleeding and to infection.

Experiencing procedures with unwanted and intolerable pain may lead to emotional trauma and its sequelae, including depression and isolation, especially if the woman has been traumatized previously.

In response to fear and mistrust, the patient may subsequently avoid the facility under any condition, leading to untreated illness, injury, and pregnancy complications.

Complaints raised against the staff and the facility are likely to result in a diminishment of reputation and potential legal action, thus affecting the ability to care for patients in the region and to maintain financial viability.

2. Using the Integrated Human Rights and Health Checklist, identify the human rights that were infringed in this case.

Numerous human rights are implicated when a doctor refuses to provide pain relief to a patient undergoing an abortion in order to punish her for the abortion. These rights include the right to be free from cruel, inhuman, and degrading treatment; the right to health; the right to nondiscrimination; the right to autonomy and decision-making; the right to decide on the number and spacing of children; and the right to the benefits of scientific progress and its applications.

As the United Nations Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment noted, the UN Committee against Torture “has repeatedly expressed concerns about restrictions on access to abortion and about absolute bans on abortion as violating the prohibition of torture and ill-treatment. On numerous occasions United Nations bodies have expressed concern about the denial of or conditional access to post-abortion care, often for the impermissible purposes of punishment or to elicit confession” (Méndez 2013).

3. What standards of practice in hospitals and outpatient surgery clinics ensure a patient's right to be free from degrading and inhuman treatment?

A safe and effective surgical procedure begins with counseling and obtaining full informed consent for the surgical procedure and the anesthetic. Practitioners and patients should work together to plan the safest and most comfortable approach possible for the procedure. Analgesia and anesthesia should be appropriate for the type



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of procedure planned and the degree of pain anticipated. Vital signs and patient comfort should be monitored continuously throughout the procedure.

Patients and practitioners observing coercion or inhuman treatment should report the behavior to administrative authorities. Students and teachers discussing this case should describe the appropriate procedure for reporting if they are in a situation to observe such behavior. A student who stands silent while a patient is harmed is implicated in that violation of rights.

4. How should the hospital administrator respond to the patient's letter of complaint?

The hospital administrator has many challenges and obligations: to right the grievance with the patient and her family, to address Dr. D.'s misconduct, and to comply with patients' rights by introducing procedures that ensure safe, respectful surgical procedures. Above all, he is responsible for protecting the rights of all patients who enter his hospital by establishing and enforcing fundamental protections.

The hospital administrator should offer a full and frank apology to the patient. Ideally, Dr. D. should also sincerely apologize, but if that is unrealistic the administrator should apologize on behalf of the staff. It may be prudent to waive all charges incurred during the visit.

Next, Dr. D.'s behavior must be addressed through education and through sanctions on her practice. She must be informed that her treatment of this patient is unacceptable and will not be tolerated. She then should be offered training in both medical and ethical aspects of outpatient abortion services and warned that further episodes of similar behavior may result in disciplinary or legal procedures against her.

Finally, the hospital must use the investigation to begin a process of creating policies and embedding practices that will ensure that future outpatient abortion services will always be performed with the patient under adequate analgesia and will be conducted in a respectful manner that protects the patient from degrading or humiliating treatment.



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