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Some Experience on Medical Researches in Croatia

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Abstract:

From December 2004 there is Patients' Rights Protection Act in Croatia. Even before it, there was legal obligation for the protection of the patients' rights during medical researches or from being involved into such researches without consent in Croatia. In the same time there were very few legal claims. Therefore you can find here our review on some of the patients' experience on medical researches in Croatia.

Today, sixty years after the break of Nazism, we still live by the imperative of keeping the memory of crimes against humanity committed back then. The reason for that is the need to prevent the violations of the human rights that happen nowadays. There have been, unfortunately, too many times in older or even closer history, too many horrible examples of killing thousands or even million people for “the common good”. The monstrous constructions in some peoples’- “modern Mengeles” heads we can’t prevent. Therefore it is crucial to learn form history to recognize, to prevent or even to stop commitment of such, or similar crimes. The main question therefore is - how much do the citizens know about whom, and under what conditions, offer them to participate in clinical-medical researches?

Political decisions, and so the decisions on legislation and ways of organizing such a delicate field like clinical and medical researches (the field so convenient for different ways of violating basic human and patient’s rights) are made almost without any public participation. Unfortunately, very often even without the participation of the medical

experts. As the recognition and the protection of human rights could be named as the basis of the democracy, many world countries have certain specific legislation ways of protecting patient's rights during medical researches.

We wish here to share with others our views on clinical researches in Croatia.

Croatia is very popular and requested partner for the field of medical researches. The cause of it is the fact that medical services in Croatia are less expansive in comparison to other more developed countries, and the quality of the medical service and technological level of the equipment are very high in the same time. It is very well known fact that Croatian doctors are the worlds' leading experts in the field of forensic genetics. They are also not much behind in many other professional aeries of the medicine.

The danger of clinical researches in Croatia lies in the fact that there are no practical ways of sanctioning the violation of the patients' rights, too. Also, the fact that there is no wider public knowledge of the ways of protecting human rights when the life or the health of the patient involved in the medical research are endangered. And finally, the damages that are eventually paid to those who "dare to sue" are rare and rather low. That makes them suitable for the rich pharmaceutical corporations. Therefore they select exactly this sort of the systems as convenient for undertaking medical researches.

The legislation on the human rights is rather advanced with the new The Patient's Rights protection Act in Croatia. Despite many deficiencies of the Act, the articles defining and operating medical researches are rather precise. But, we think that the current Croatian situation does not guarantee the practical implementation of the mentioned legal protection. That is clear from such a small number of patient's court claims based on violation of their rights on information, informed consent or on refusing the recommended medical treatment. There are no information in the public about court cases in the filed of violation of the patient's rights during medical researches. In the same time The Croatian Association for patient's rights receives many patients' complaints, which were published on scientific and expert conventions and gatherings of such kind in Croatia. We consider the protection of the patient's rights in Croatia still on declarative level, but: there is slow, but continuous, development of the people's consciousness about individual human rights of every single human being.

There's been brought up the case of a female patient who found out she became a participant in clinical research of a drug in a way that she has found "her own" (falsificated) signature in an official form of agreement for taking part in medical research. Mentioned patient didn't unfortunately gathered enough "strength" to sue because someone falsificated her own signature (which is a criminal offence according Croatian Criminal Code) nor for violating her patient's rights on information and informed consent. There are articles in Croatian Constitution, which guarantee protection of the basic human rights, so her basic human rights were violated regarding the Constitution. In Criminal Code there is an article of sanction for violation of the human rights, particularly a right to decide whether a person wants or not to participate in clinical research (es).

It wouldn't be too difficult to prove previously mentioned violations of the basic human rights, according the patients description of the case.

Nevertheless, the patient does not trust “the legal state”; she is frightened of a possible repression of the medical “clan” and the possibility that she wouldn’t be able to obtain any future medical service. So, she “forgets” about the violations of her rights. Even more, she isn’t able to find out a proper legal protection because of her financial situation (like the majority of Croatian citizens). The legal protection costs, legal fees are high, and possible awarded damages are so low that they wouldn’t cover costs of the long-lasting legal proceedings.

There is a case of the patient who has found out he’s participating in the drug testing for several months without even knowing it, and then make conclusion that he had put his signature on something that, now he knows, should be the agreement form for participating in a drug testing. What happened?

The patient was given by physician the agreement form to sign without providing any information on what the patient is signing. The patient, frightened of serious illness, listening to his doctor, signed the paper without concerning importance of signed paper. After a couple of months he realized what he must have been signed the agreement to participate in a medical research of testing a new drug. He asked for an advise to The Croatian Association for Patients’ Rights and managed to stop his participation in medical research. He also isn’t ready to claim or to ask any other kind of the protection of his rights. There is no way to diminish patients’ fears for his health or even life after he had refused further participation in drug testing. We should not forget that there could be even negative consequences for his basic illness because of this fear of further medical treatment, whether that fear is caused by participation in a drug testing or by refusing of doing it. There is a mutual insecurity in legal system in both cases. In that way we can correlate the quality of medical services, and the quality of citizens’ health with the political consciousness in the country. These (described) violations of the human rights are basically political crimes.

Each time we look for the answers jumps out someone’s small political and financial interests (against “common good”). Such a situation rises up from very “beneficial” contracts offered to financially dependent –poor countries, for clinical researches. This is possibility for the capital from rich countries to put in question human lives in poor countries. For example, clinical testing of drugs where there is no sufficient protection of patients’ rights and the lack of the latter is rooted in the policy that does not want to lose economic benefits from the fact that their patients are not protected.

Should we deny that could be a reason well enough to make some omission at legislative intentionally and not only by negligency?

Conclusion:

With this paper we intended to stress that the modern age is burdened with crimes against humanity of a man, which are by their cruelty, not behind the horrible crimes from “Camps of death” at “Nazi time”.

Every violation of human rights is monstrous.

It is each individual duty and responsibility to recognize the violation of human rights, as well as to seek for adequate and efficient protection.

Development of communication technology provided us learning by exchanging our experience, taking advantages of positive experiences of someone else. It means that we should be able to be more efficient fighting for human dignity and all the human rights from day to day.

Shareing our experience here in Haifa, we all hope to put some little weight on the side of the resistance to the crimes against the humanity and human being.

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Articles 19., and 21. and also 41. and 42. of The Patients' Rights Protection Act.

III. Žrtvoslovni kongres Hrvatske, June 2004., III. Lošinjski dani bioetike, June 2004.

Criminal Code, Narodne novine,110/97.

Croatian Conistitution, Part III, Basic liberties and rights of person and citizen, Section 3. Economic, Social and Cultural rights, article 69., Narodne Novine br. 56/90, 8/98, 124/00, 41/01