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THE LAW AND THE CRISIS MANAGEMENT IN A HOSPITAL SETUP VIZ A VIZ CONSEQUENCES ON HEALTH CARE DELIVERY- A CASE STUDY OF JEHOVAH'S WITNESSES

DR. PRAKASH.K.N
RESEARCH SCHOLAR
CBSMS
BANGALORE UNIVERSITY
BANGALORE

DR. CYNTHIA MENEZES
READER
CANARA BANK SCHOOL OF MANAGEMENT STUDIES
BANGALORE UNIVERSITY
BANGALORE

S. HARISH BABU
ASST.PROFESSOR
DEPARTMENT OF MANAGEMENT STUDIES
NITTE MEENAKSHI INSTITUTE OF TECHNOLOGY
YELAHANKA

ABSTRACT

Jehovah's Witnesses are ethnical minority community who refuse transfusion of whole blood, red cells, white cells, platelets and plasma. They seek medical attention, accept most procedures and treatments. This tension between medical science and religious fervor resulted in moral dilemmas for medical professionals. Many Jehovah's Witnesses carry a signed and witnessed advance directive card refusing blood transfusions. This study is to know whether ethnical community beliefs can make impact on a medical treatment and what would be the role of law while treating such patients. Court decisions can go either in favor of Jehovah's Witnesses or of medical fraternity. Parental decisions can be over ruled by court and doctors were given liberty to judiciously transfuse the blood in order to save the minor. Transfusions among minor can invoke court cases and decisions years later after they attain majority. Passage of time didn't made major impact on Watchtower Society to change their feelings towards blood transfusions. Some hospitals did succeed in getting court order to transfuse blood to Jehovah's Witnesses. This custom invokes hospitals involved in medical tourism to know the various beliefs among different ethnic communities we are treating.

KEYWORDS

Jehovah's Witnesses, Blood Transfusions, Medical Tourism.

INTRODUCTION

The name Jehovah (or Yahweh, as the Roman Catholic Jerusalem Bible and some scholars prefer) appears in the original Hebrew Scriptures). In most ways Jehovah's Witnesses are like everyone else¹. They have normal problems—economic, physical and emotional. They have made a dedication to God to do his will, and they apply themselves to fulfill this dedication. In all their activities they seek guidance from God's Word and his holy spirit. It is a descriptive name, indicating that they bear witness concerning Jehovah, his God ship, and his purposes. They are approximately 7.2 million populations with presence in most countries², though they do not form a large part of the population of any country. They believe in taking blood into the body through mouth or veins violate God's laws. In fact, they will go so far as to allow a loved one to die rather than accept a transfusion, as they believe transfusions are a gross violation of God's law³.

They absolutely refuse transfusion of whole blood, red cells, white cells, platelets and plasma. They believe that blood removed from the body should be discarded and therefore will not accept stored autologous blood components. They are conscientious about seeking medical attention and accept most procedures and treatments. They will usually accept autologous blood maintained in continuous circulation, such as with haemodilution, cell savers, dialysis, apheresis or extracorporeal bypass. Their religious beliefs do not absolutely prohibit the use of products containing blood fractions (e.g. albumin, cryoprecipitate). The final decision rests with the individual. Their religious beliefs do not absolutely prohibit the use of products containing blood fractions (e.g. albumin, cryoprecipitate). The final decision rests with the individuals⁴.

REVIEW OF LITERATURE

The first blood transfusion involving a human being is performed in June 15, 1667 and the patient — a 15-year-old boy who had been bled so much by his doctor that he required an infusion of sheep's blood, somehow, the kid recovered⁵. Later many years blood transfusions were ineffective due to complexity of blood transfusions. First well recorded transfusion happened in year 1818 when Mr. James Blundell transfused human blood to a post partum hemorrhage patient. Another discovery that advanced the science of blood transfusions occurred in 1901, when Karl Landsteiner demonstrated the presence of agglutinins and iso-agglutinins in the blood⁷. The first true blood bank was organized at Chicago's Cook County Hospital in 1936⁸.

"The day's news tells of a mother who sacrificed six ounces of her blood in a transfusion for her baby girl. Strange that the busy press should even consider this news. A mother who wouldn't consent to a blood transfusion for her child would be much greater news and the world a sorry place indeed on the day that such news is found!" -- Columnist Allene Sumner, in 1926⁹.

Watchtower Society, New York first stopped Jehovah's Witnesses from accepting blood transfusions in 1945, there has been a stream of state and federal court cases on moral concept that allow an adult or a child to needlessly die inside a hospital setting. However, such has been accomplished with tireless efforts of the Watchtower Society's Legal Department¹⁰.

The law in the United States regarding Jehovah's Witnesses and their refusal to accept blood transfusions is somewhat settled, although subject to exceptions. Most competent adults have the constitutional right to refuse to accept a blood transfusion, even if such refusal means they will die. Every year in the United States, an unknown number of adult Jehovah's Witnesses exercise their constitutional right to choose death over a life-saving blood transfusion. Adult Jehovah's Witness Parents and Guardians also will attempt to impose the same "death decision" on their minor children, but practically every hospital will attempt to obtain a court order which will permit them to administer medically necessary blood transfusions over the parent's objections. Courts in the United States will nearly always appoint a temporary legal guardian under such circumstances to oversee and guarantee necessary medical care. Scenarios involving Jehovah's

Witnesses Minors nearing the age of majority, pregnant JW Mothers and their "fetuses" and adult JWs who have existing parental obligations, are less settled¹¹. Jehovah's Witnesses scattered around the United States are adamant supporters of the home deliveries. Thousands, of Jehovah's Witness newborn babies, who needed a blood transfusion to survive, died because their birth occurred outside a hospital setting. Many Jehovah's Witness families with known genetic problems, repeatedly had babies as those parents simply believed one to eventually survive¹². Dr. Carl J. Saphier led a study at Mount Sinai School of Medicine in New York, NY, of the maternal death rate among Jehovah's Witnesses. The report indicates a death rate of 521 deaths per 100,000 live births—a rate nearly 44 times higher than that among the general US population. The precision of that number is in doubt because it was based on only two deaths. Sr. Saphier said "The findings imply that special care is required for women who are Jehovah's Witnesses, including special counseling prior to delivery, methods of minimizing the blood loss at delivery, and fast treatment for any hemorrhage¹³."

Opening the way to reject blood transfusions may open the way to be refusing other life-saving medical procedures. Right-to-die and assisted suicide shares common arguments with the Jehovah's Witnesses. The Watch Tower Society has Hospital Information Services to provide education and innovate into bloodless surgeries and treatment. This service maintains Hospital Liaison Committees, functions to support adherents¹⁴.

The Supreme Court of Canada has made a number of decisions concerning Jehovah's Witnesses. These include laws that affected activities of Jehovah's Witnesses in the 1950s and more recent cases dealing with Witness parent's rights to decide medical treatment was in the interest of their children based on their faith. Justice Rosalie Abella wrote for the majority, "A young person is entitled to a degree of decisional autonomy commensurate with his or her maturity¹⁵."

In 1998, El Salvador's, Central America, Supreme Court of Justice struck down a Social Security Hospital rule that required patients to donate blood in order to receive medical treatment. Previously, hospital policy called for all patients to provide two units of blood prior to a surgical procedure. After this, those who wish to receive medical treatment in the Social Security Hospital have the legal right to choose not to give blood¹⁶.

Virginia, U.S. state, Section 79(1), (b) of the Criminal Offences Act of 1960 (Act 29) states that "A parent is under duty to give access to the necessities of health and life to the child who is not of age and capacity as to be able to obtain those basic necessities"¹⁷.

In England, adult patients of sound mind have a basic human right and protected by common law to refuse medical treatment even in the face of death¹⁸. If patient is unable to make their views known, then the effect of a close relative objecting to treatment is only effective as evidence of what would have been likely to be the patient's own wish. Patient's kin objecting to a blood transfusion would only have legal weight 'if the patient had previously expressed their own refusal of transfusions by, for example, carrying a card¹⁹'.

In December 2000, Germany's Supreme Court ruled that Jehovah's Witnesses did not have to pass a test of "loyalty to the state", laying the foundation for greater freedoms for German citizens. According to a Berlin court, Jehovah's Witnesses should have the same legal status as Germany's major²⁰.

The Constitution of the Russian Federation, Article 14, states, the Russian Federation shall be a secular state. No religion may be instituted as state-sponsored or mandatory religion and Religious associations shall be separated from the state, and shall be equal before the law. Hence Jehovah's Witnesses have to no right to refuse transfusions and can be punished guilty if knowingly caused harm to that effect²¹.

On February 9, 1998, the Tokyo High Court handed down a landmark decision upholding Takeda's right to informed consent. An upcoming decision by the Supreme Court of Japan could lead to greater respect for a patient's right to self-determination, moving Japan closer to international standards of patients' rights²².

Numerous individual cases involving Jehovah's Witnesses have been heard by various courts throughout the world and some are cited and studied.

STATEMENT OF THE PROBLEM

Jehovah's Witnesses and doctors are vulnerable in indecision over the right to settle on the medical treatment. Doctors, not wishing to be deprived of an important treatment option, sometimes refused to treat or operate on Jehovah's Witnesses as transfusions are crucial in emergencies and tertiary care. In cases of life-threatening illness or injuries, judges often issued emergency court orders, allowing doctors to override patient objections and transfuse if necessary. Witnesses too went to court for patient autonomy and the patient's right of informed consent. This tension between medical science and religious passion formed ethical dilemmas for medical professionals and Jehovah's Witnesses⁵.

IMPORTANCE OF THE STUDY

Aim: Many Jehovah's Witnesses carry a signed and witnessed advance directive card absolutely refusing blood. This study is to know whether ethical community beliefs make impact on a medical treatment of such patients and what would be the role of law while treating such patients. Over the period of time does the change in law help the medical fraternity to prevent untimely deaths or still hospitals face dilemma of taking decision to transfuse blood.

RESULTS & DISCUSSION:

Case 1. Misae Takeda, 1992, Japan, one of Jehovah's Witnesses, was given a blood transfusion in 1992, while still under sedation following surgery to remove a malignant tumor of the liver. On February 29, 2000, the four judges of the Supreme Court unanimously decided that doctors were at fault because they failed to explain that they might give her a blood transfusion if deemed necessary during the operation, thus depriving her of the right to decide whether to accept the blood transfusion or not. This is the first case in Japan where a civil charge has been made against physicians for giving an unwanted blood transfusion²³.

Case 2. Prematurely born infant, September 2005, South Africa, the Jehovah's Witnesses parents of a prematurely born infant didn't want him to receive a needed blood transfusion. Judge Willie Seriti heard oral evidence late that evening from pediatricians and a neurologist who said the baby suffered from severe anemia, coupled with secondary heart failure, and that his life depended on a transfusion. The doctors asked the court to override the family's wishes that the child should not be given a transfusion. Doctors were able to get a court order authorizing them to save the infant's life despite the parents' wishes - their religious beliefs can't trump the basic rights of their own child²⁴.

Case 3. Ms. K, Sept. 2006, Ireland, an African woman aged 23, gave birth at the Coombe women's hospital in Dublin, Ireland on 21. Sept. 2006. The baby is doing fine, but the mother started to hemorrhage. She allegedly lost 80% of her blood. She is a Jehovah's Witness and refused a blood transfusion. The hospital applied to the High Court of Ireland on an emergency basis. The court ordered that a transfusion be given. Mr Justice Henry Abbott ruled that doctors must intervene in the interests of the child. The judge said he accepted Ms K was *compos mentis* [of sound mind] and if brought to court on a stretcher she would oppose the application. But he told the court he felt it necessary to override her religious beliefs on the grounds that her baby boy had no other relatives, or guardians, that were known of in the state. Mr Justice Abbott said the interests of the child were paramount and that he must err on the side of preserving life. Arguments over whether the transfusion should be given could be heard at a later date, he added²⁵.

Case 4. A.C. On June 26, 2009, Canada, the case involved a young Jehovah's Witness²⁶, identified only as A.C., who was admitted to a hospital in Winnipeg with internal bleeding as a complication of *crahn's* disease. Doctors ordered a blood transfusion, but A.C. and her parents refused on religious grounds; child-welfare officials moved to take her into care and a court ordered that she get the transfusion. At the time, the judge said he was satisfied she was competent, but since she was under 16 the judge felt that her competence was immaterial to existing law²⁷.

Case 5. S/O Natalya Podlozhevich, February 2010, Russia, A Russian court has fined a woman for rejecting doctors' advice to allow her five-year-old son to have a blood transfusion. Her decision resulted in the boy's death in hospital. The verdict is the first such precedent in the Russia. In some cases a court may override parental rejection, but that is not possible in emergencies. Such was the case of Natalya Podlozhevich and her son in Russia's Khanty-Mansi region in the Urals. In February 2010, the boy was taken to hospital in critical condition and required a blood transfusion. Natalya did not give her permission even after doctors explained that her refusal would put the child's life in danger. Without proper treatment, the boy died two days later. The prosecutor's office opened a case against the mother for leaving a dependent person in danger. On Wednesday, a city court found her guilty and she was ordered to pay a fine. It is the first sentence in such a case and it will set precedent for future trials, a spokesperson for the prosecution said²⁸.

Case 6. Joshua McAuley, May 2010, England, 15 yrs ,a teenage Jehovah's Witness who was crushed by a car refused a blood transfusion before he died reported by Laura Roberts in 7:30AM BST on 18 May 2010. Teenage Jehovah's Witness refuses blood transfusion and dies. Joshua McAuley, 15, is understood to have declined the treatment advised by doctors and was not overruled by members of his family. McAuley was treated at Selly Oak hospital in Birmingham after he was pinned against a wall by a car in a freak accident. He suffered multiple injuries in the crash, was airlifted to hospital after being trapped under the rubble of a food shop. He suffered serious abdominal and leg injuries, and died at around 5.30pm that evening. A spokesman from Selly Oak hospital said: "There's not one single policy and not one single law regarding transfusions. There's no automatic right to override parental wishes or that of a minor"²⁹.

Case 7. Candy Huff, May,2011, USA ,Bruce Huff from Charlestown, southern Indiana, USA, refused blood transfusions to his wife, 8.May.2011. Candy Huff has been diagnosed with poly-pharmaceutical overdose and said to do absolutely anything to save her life except give her blood or blood products, Bruce Huff told the Evening News and Tribune. Huff, who has Parkinson's disease, said he and his wife always took care of each other. The hospital petitioned a court to appoint someone else to make medical decisions for Candy Huff, saying Bruce Huff was unable to act in her best interest. The court appointed Candy Huff's aunt, and the blood transfusions continued. Bruce Huff said his religious beliefs provoked the hospital's action, but hospital attorney Pamela Thompson denied that. "This situation was very, very unique," Thompson said. "(Religion) was not the substance or basis of the petition." She said she could not elaborate due to privacy laws. Indiana law establishes a hierarchy of who can make medical decisions. First is a judicially appointed medical representative. If there is not one, spouses, parents, adult children or adult siblings all have equal say. If they disagree, the court will decide who has the individual's best interests in mind, Thompson said. A religious superior also can make such decisions."The hospital always tries to look at the facts and circumstances and look at the families, all of the patient's rights and all of the family's rights"³⁰.

Case 8. nine-year old girl (name withheld), June.2011,James Town ,Virginia The life of a critically ill nine-year old girl (name withheld) whose parents belong to the Jehovah Witnesses faith was saved when the James Town police offered protection to the medical staff of the Princess Marie Louise Children's Hospital to provide blood to the dying patient. The police intervention was as a result of a distress call by doctors and nurses at the hospital who were faced with the challenge at the hands of the girl's parents who were protesting against the intended transfusion of blood to their daughter since it was against their faith. The girl, a sickle cell patient, whose blood count had gone down drastically, was diagnosed by a team of doctors and the mother brought the patient who had the "SS" blood trait to the hospital looking very pale. Nurses recognized the girl as a sickle cell patient who had not been attending clinic for counseling and guidance. The mother refused to send the sample meant for the blood grouping or cross-matching that could aid the possible blood transfusion. She was adamant and urged on by some friends, she demanded that the daughter be discharged forthwith. Police Superintendent immediately responded to the call and dispatched a team of policemen to provide protection to the health team. The doctors finally resolved to have the girl transfused with the blood. Superintendent Bakomora justified the actions of the medical staff, saying they owed it a duty to prevent the loss of life³¹.

CONCLUSION

Jehovah's Witnesses preach and practice those passages of the Bible which forbid blood transfusions. It's a very complex medico legal topic that has to be analyzed on a case by case basis. Morality of Jehovah's Witnesses and medical professionals are in sharp contrast regarding blood transfusions. There is continuum of variation of laws among various nations. This ethnical belief and individual freedom resulted in increased mortalities among Jehovah's Witnesses community. Some hospitals did succeed in getting court order to transfuse blood to Jehovah's Witnesses in order to save lives. This strange behavior invokes hospitals involved in medical tourism and tertiary care to know the various beliefs among different ethnic communities we are treating.

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