

The rights of patients as consumers: An ancient view

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Abstract

As far as the rights of consumers are concerned, the International Organization of Consumer's Union (IOCU) in 1983 has specified about the eight rights of a consumer. The Consumer Protection Act (CPA), 1986 then prescribed six "Rights of Consumers," which are protected under the act. However, these rights can be observed in the ancient Indian texts such as *Brihat-trayee*, *Narad Smriti*, and *Kautilya Arthashastra*, in the form of rights given to patients. For the purpose of present study, the implemented methodology includes – (1) study of the consumer rights described by IOCU and CPA, (2) detailed review of literature for observance of replication of these consumer rights in the ancient Indian texts and (3) a comparative study of the present consumer rights with the rights of patients observed in ancient Indian texts. This study shows that the substance of consumer rights is not a recent evolution, but the foundation of these rights has been laid well beforehand in the ancient times, which were provided to the patients by medical profession as well as by the rulers. The current scenario of protection of consumer rights is the replication of this ancient practice only.

Keywords: Ancient Indian texts, rights of consumers, rights of patients

Introduction

The health-care services in India have seen a tremendous change in the past few decades. The major change has been in the form of Consumer Protection Act (CPA) formulated in the year 1986. The medical profession has also been brought under the purview of this act since 1995. All the patients making payments for availing health services have been brought under the definition of "Consumer" by this act. Furthermore, it has prescribed six "Rights of Consumers"^[1] for protection of which, the act has been formulated.

The consumer rights have been specified initially by the US president John F. Kennedy and The International Organization of Consumer's Union (IOCU) in 1983. They have specified eight rights of a consumer,^[2] including those indexed in the CPA. This has led to a great awareness in the people about the rights of consumers.

However, these rights can be observed in the ancient Indian texts in some form or other. Most of these rights can be seen in *Brihat-trayee*, while some are seen in other ancient texts such as *Narad Smriti* and *Kautilya Arthashastra* and these are observed as the rights given to patients.

Aims and objectives

1. To study the ancient Indian texts, especially the Ayurvedic texts and those related with ancient law and justice
2. To compile all the references of rights of patients as Consumers mentioned in ancient Indian texts
3. To compare the references in ancient Indian texts with the present rights of consumers
4. To discuss the other aspects relevant to the rights of patients as consumers.

Method of Work

- Study of the Consumer Rights described under CPA, 1986 and those specified by the IOCU in 1983
- Detailed review of literature for observance of replication of these Consumer Rights in the ancient Indian texts, specifically the *Brihat-trayee*, *Narad Smriti*, *Kautilya Arthashastra*, etc
- A comparative study of the present consumer rights with the rights of patients observed in ancient Indian texts.

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Results & Observation

1. The right to safety – To be protected against products, production processes and services which are hazardous to health or life (according to the IOCU as well as CPA)

In Ayurvedic *Samhita* (Texts), we find a number of references pointing toward the safety of patients during treatment and also to keep them healthy in day-to-day life. Sage *Charaka* has stated that all those food materials, which are healthy in nature, should be included in the daily routine diet, but these food materials should not give rise to some new disease conditions.^[3] In addition, the treatment which cures a disease, but gives rise to some other disease condition cannot be called to be a wholesome treatment. A wholesome treatment is the one which cures a disease but does not give rise to any other ailments.^[4] The great trios have mentioned that the patients suffering from *Unmada* (insanity) and *Apasmara* (epilepsy) should be kept away from water, fire and should be restricted from climbing over trees and mountains, which can prove harmful for them.^[5] Sage *Charaka* has advised to keep in hand an umbrella in the daytime and a noisy broken bamboo stick in the night time, so as to safeguard against accidental threats of snake bites.^[6]

The contraindications given for many procedures such as *panchakarma* (five treatment modalities), *Shastrakarma* (surgical procedures), *Ksharakarma* (chemical cauterization), *Agnikarma* (thermal cauterization), and for various medicines such as *Visha Kalpas* (poisonous medicines) and *Tikshna Aushadhi* (strong medicines) are nothing but the measures for safety of patients. Sage *Sushruta* has said that a doctor should enter the profession only after practicing his skills on dummies, only to safeguard the patients from iatrogenic artifacts.

2. The right to be informed – To be given the facts needed to make an informed choice and to be protected against dishonest or misleading advertising and labeling (According to the IOCU as well as CPA)

In *Ayurveda*, it is explained that the patient has to be informed about his illness and the treatment modalities to be used. Especially when the disease condition is incurable, the *Vaidya* (Doctor) has to perform the “*Pratyakhyeya Chikitsa*”^[7] (informed treatment). In such diseases, there was a procedure of taking informed consent from relatives of the patient or the king before starting the treatment. Sage *Sushruta* has stated that if the patient is in critical condition the patient may die suddenly if we do not give any treatment in certain disease conditions. However, even after providing prompt treatment, his chances of survival are doubtful in such critical conditions. Therefore, the doctor should inform to the relatives of patient or the king about the serious condition of the patient and then only he should proceed with his treatment.^[8]

3. The right to choose – To be able to select from a range of products and services, offered at competitive prices, with an assurance of satisfactory quality (according to the IOCU as well as CPA)

In Ayurvedic texts, we find ample description about a good physician and also about a bad physician or a quack. A good physician is described as *Pranabhisara Vaidya*, *Jivitabhisara Vaidya*, *Uttama Bhishak*, *Uttama Vaidya*, etc., (Various terms used for a good physician) On the other hand, a bad physician or a quack is described as *Murkha Vaidya*, *Chhadmachara Vaidya*, *Siddhasadhita Vaidya*, *Rogabhisara Vaidya*, *Adnya Vaidya*, *Ku Vaidya*, *Taskar Vrutti*, *Shvapacha*, *Bhishakapasha*, etc., (various terms used for a bad physician or a quack). Such a vast description has been given to discriminate a good physician from a bad one so that the patients can be able to deliver their right to choose a proper physician.

Sage *Sushruta* has explained the procedure of anesthesia before performing any operative procedure, for which he has advised to use liquor for the one who is accustomed to it and favorite food for the others. This indicates the right to choose for the patients.

4. The right to be heard - To have consumer interests represented in the making and execution of government policy, and in the development of products and services (according to the IOCU as well as CPA)

In *Narad Smriti*, we find references about the formulation of bodies which had offered the right to be heard to the public. There was a body similar to the courts which comprised of the King, Chief Judge, Assessors, Accountant, and Writer. Furthermore, hierarchical bodies such as *Grama Sabha* (Village forum), *Pura Sabha* (City forum) and *Raj Sabha* (King's forum) provided the right to be heard of appeals.^[9] *Kautilya's Arthashastra* has explained about the body consisting of 3 *Pradeshta* (Magistrates) and 3 *Amaatya* (Government officers from Ministry) which provided the public with a right to be heard and solved the disputes.^[10]

5. The right to redress - To receive a fair settlement of just claims, including compensation for misrepresentation, shoddy goods or unsatisfactory services (according to the IOCU as well as CPA)

In Ayurvedic texts, there is no direct description about redressal for substandard goods or services, but there is clear indication that the medical profession was under the supervision of the king.^[11] In *Kautilya Arthashastra*, we find the reference about penalties for the mistakes of the physicians. In addition, we find the references of redressal for criminal abortion and treating an injured patient or an epidemic patient secretly without reporting to the concerned authority.

Kautilya's Arthashastra has described that a serious patient should be treated only after reporting to the concerned authority, because if the patient dies, then the physician will get a mild punishment for his over-confidence. If the death of the patient occurs due to the mistake of the physician, then, he will be punished moderately. In case of a grievous injury to the patient or case of loss of any body part, the physician will be given a severe punishment as per the case.^[12]

In *Narada Smruti*, there is a provision of redressal for faulty goods as well, which can be said to be a pioneer application of the CPA. The faulty goods had to be either exchanged by the trader or the price of the goods had to be paid back to the customer. Also, this text explains about the complete judicial procedure of that time, which clearly shows that the consumers had been awarded with the right to redress.^[13]

6. The right to consumer education - To acquire knowledge and skills needed to make informed, confident choice about goods and services, while being aware of basic consumer rights and responsibilities (according to the IOCU as well as CPA)

Sage Charaka denotes the importance of consumer education as “*Aptopadesha*” (Words of trustworthy persons) in ancient period also. He stated that the knowledge obtained from the authentic sources like *Samhitas* and the knowledge tested with the help of various research methods are the means of prevention of diseases as well as for the cure of diseases.^[14] For *Jentaka Sweda* (sweating procedure), it is said that patient should be educated about the safety measures while entering the *Sweda Kuti* (sweating room) and also about the post therapy measures.^[15]

We find a number of advices in Ayurvedic *Samhita* (texts) for maintaining the health of public. *Dinacharya* (daily routine), *Ritucharya* (seasonal routine), *Sadvritta Palana* (good lifestyle), *Aahara Vidhi Vidhana* (food consumption technique) and *Aachara Rasayana* (rejuvenation by good behavior) are some of the advice, which offer the right to consumer education. *Sage Charaka* stated that one should leave all his other works behind and should concentrate on the nourishment of his own body because in the absence of a healthy body, all the other pleasures of the world are countless.^[16] Also, a wise person should always eat healthy foods only, in proper quantity, at the proper time and should keep control over his organs as the development of various diseases are due to improper food habits.^[17]

Under the right to consumer education only, people were always being educated about things that are important for their health.

7. The right to a healthy environment - To live and work in a good environment that is non-threatening to well-being in present and future. (according to the IOCU only, as this right hasn't been mentioned in CPA)

The great trios have described the qualities required to be possessed by the doctor, nurse, patient and drugs. They have emphasized on the quality of “*Shuchi*,” i.e., maintaining proper hygienic conditions, which has to be possessed by both the doctor and nursing staff.^[18] This points out toward the right to a healthy environment.

In addition, there are descriptions about various establishments such as *Aturalaya* (hospital), *Vranitagara* (trauma centre), *Kuti* for *Jentaka Sweda* (sweating room), *Sutikagara* (maternity

home) for which the guidelines to maintain a healthy environment have been mentioned. Thus, the right to healthy environment has to be preserved.

8. The right to a healthy environment - To live and work in a good environment that is non-threatening to well-being in present and future. (according to the IOCU only, as this right hasn't been mentioned in CPA)

In case of healthcare, *sage Sushruta* has mentioned that even poor and forlorn people have to be supplied with the basic needs of healthcare. When diseased, they should be treated by the doctor as his own siblings, and their health should be restored using his own medicines.^[19]

The great trios of *Ayurveda* have described some special provisions for kings and rich people. However, the right to the satisfaction of basic needs was not denied to the common man. Although there were provisions for the establishment of well-equipped *Panchakarma* (Five cleansing treatment modalities) hospital for the king and wealthy people, the poor people were also served in such hospitals and the basic equipment and drugs for *Panchakarma* (five treatment modalities) were provided by the king for the general public.^[20]

In case of a commonly occurring disease like *Prameha* (Diabetes), the rich, as well as the poor, were provided with different treatments as per their financial conditions, thus, the poor people were not neglected and their right to the satisfaction of basic needs was delivered promptly. The rich people were provided with various *Pramehahar Yoga* (Anti-diabetic drugs) which were slightly costly, while the poor patients of *Pramehahara* (Diabetes) were provided with cost-effective remedies like exercises, agriculture, a walk for 100 *yojana* (1 *yojana* = 8 miles).^[21]

Discussion

After making a review of all the above said eight consumer rights, two of these rights need to be discussed for their relevant aspects.

The right to be informed

A consumer has to be informed about all the facts needed to make an informed choice. Similarly, a patient has to be informed about his illness and the treatment modalities to be used. However, especially in the medical profession, sometimes this right needs to be violated in good faith in critical conditions.

Even if the doctor has recognized that the patient is not going to survive much longer, he should never explain this fact to the patient; because if he discloses this information, it may result into a mental collapse to him or any of his relatives.^[22]

The Sages have described deceitful treatments in certain diseases by hiding the true nature of the treatment given, however, it is done in good faith only for the welfare of the patient. In *Rajayakshma* (tuberculosis), meat of carnivorous

animals and birds has to be given to the patient without notifying on him, because it is essential as per his disease condition.

Also, in *Unmada* (insanity), the patient should be terrified by fangless snakes or trained and restrained wild animals, so that sensation of fear can take over the mental trauma which is causative factor of the disease. Here again, the patient has been deprived of his right to be informed in good faith.

The right to choose

This right has been reformulated as “The right to basic goods and services,” because an unrestrained right to choose for a minority would mean that the majority will be denied of its fair share.

There are certain references in ancient *samhita* (Texts) showing an unrestrained right to choose for a minority like kings and rich people. For them, there had been some specially chosen provisions, namely, collection of equipment for *Panchakarma*^[23] (five treatment modalities), procedure for consumption of liquor,^[24] special purgatives like *Trivrudashtaka*^[25] (a purgative drug formulation). However, reformulation of this right as “The right to basic goods and services” can be seen in ancient times as well, so that the majority should not be denied of its fair share. For that purpose, provisions for poor people like collection of equipment for *Panchakarma* (Five treatment modalities) by the king for the general public,^[26] other simple purgatives for common man,^[27] etc. had been provided.

Conclusion

With the progress of consumer movement in the 1980s, the consumers have been provided with these eight valuable rights, which they perfectly deserve for. The provision of these rights has been made to make sure that, the consumers must not be fooled by the traders and service providers, and they should always be provided with a full value of their money. However, this does not apply to the fields of trade and commerce only, but also to the medical profession as well, where a patient should always obtain all the benefits for his health and prosperity, which he deserves on the basis of humanity, law and ethics. Therefore, the benefits of these consumer rights have been extended to the patients as well, who avail the services of medical professionals for their ailments.

However, the foundation of these rights has been laid well beforehand in the ancient times. These rights were already being provided to the patients in the ancient times by the medical profession as well as the administrators.

1. The contraindications given for many procedures such as *panchakarma* (five treatment modalities), *Shashtra* (surgical procedures), *Kshar* (chemical cauterization), and *Agni Karma* (thermal cauterization) and for various medicines like *Visha Kalpas* (poisonous medicines) and *Tikshna Aushadhi* (strong medicines) are nothing but the measures for safety of patients

2. *Pratyakhyeya Chikitsa* (informed treatment) was a procedure of taking informed consent from relatives of the patient or the king before starting the treatments. However, this right needs to be violated sometimes in good faith in critical cases; otherwise, patient might suffer a mental collapse making his condition even worse
3. “The right to choose” has been reformulated as “The right to basic goods and services,” because an unrestrained right to choose for a minority would mean that the majority will be denied of its fair share
4. *Narada Smruti* mentions the provision of redressal for faulty goods, which can be said to be a pioneer application of CPA. The faulty goods had to be either exchanged by trader or price of the goods had to be paid back to the customer
5. The quality of “*Shuchi*,” i.e., maintaining proper hygienic conditions, which has to be possessed by both the doctor and nursing staff, points out toward the right to a healthy environment.

Based on these ancient practices, the current scenario of consumer awareness about their rights can be observed. This scenario might be new to the modern medical sciences, but has already been practiced and established by the ancient medical sciences like Ayurveda.

The CPA in India provided only first six rights to the consumers, while the last two rights specified by the IOCU have not been granted to the consumers under the CPA. Therefore, the consumer movement in India might further progress in the direction of satisfaction of these two consumer rights, which were already in practice in the ancient times, but have not been indexed in the CPA.

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There are no conflicts of interest.

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हिन्दी सारांश

आतुर के उपभोक्ता के रूप में अधिकार – प्राचीन दृष्टिकोण

निशांत भीमराज बारापात्रे, विष्णु प्रभाकर जोगलेकर

प्राचीन दृष्टिकोण से जहां तक उपभोक्ताओं के अधिकार का संबंध है, उपभोक्ता संघ के अंतर्राष्ट्रीय संगठन (आई.ओ.सी.यू.) ने १९८३ में उपभोक्ताओं के आठ अधिकार निश्चित किए थे। इसके पश्चात उपभोक्ता सुरक्षा कानून (कंज्यूमर प्रोटेक्शन एक्ट), १९८६ में उपभोक्ताओं के छः अधिकार पारित किये जो कि कानून के दायरे में संरक्षित है। किन्तु यह अधिकार, प्राचीन भारतीय ग्रंथों में जैसे कि बृहत्त्रयी, नारद स्मृति, कौटिल्य अर्थशास्त्र इत्यादि में रोगियों को दिये गए अधिकारों के समान प्रतीत होते हैं। प्रस्तुत अध्ययन हेतु निम्नोक्त कार्य पद्धति का अवलोकन किया गया १) उपभोक्ता संघ के अंतर्राष्ट्रीय संगठन (आई.ओ.सी.यू.) तथा उपभोक्ता सुरक्षा कानून (कंज्यूमर प्रोटेक्शन एक्ट), द्वारा वर्णित उपभोक्ताओं के अधिकार। २) उपभोक्ताओं के अधिकारों की प्रतिकृति का प्राचीन भारतीय साहित्य में अवलोकन करने हेतु विस्तृत रूप से साहित्यिक समीक्षा। ३) अद्यतन उपभोक्ता अधिकार तथा प्राचीन भारतीय साहित्य में वर्णित अधिकारों का तुलनात्मक अध्ययन। यह अध्ययन इस बात को उजागर करता है कि, उपभोक्ताओं के अधिकार का विषय कोई नया आविष्कार नहीं है, परंतु इन अधिकारों की आधारभूमि पृष्ठभूमि पुरातन काल में ही रची गई थी, जो कि रोगियों को वैद्यकीय व्यवसाय के द्वारा तथा शासकों द्वारा प्रदत्त थे। सद्यः स्थिति का उपभोक्ताओं के अधिकारों की सुरक्षा का परिदृश्य, प्राचीन चलन की मात्र प्रतिकृति है।