

Roma sterilization practices in South Eastern Europe

„Act in such a way to always treat our patients as purposes in itself and never just simple means” (E. Kant)

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Abstract

In recent years, in South Eastern Europe, there have been some reports regarding involuntary sterilization of Roma women. In this article, we will present three cases of involuntary sterilization through tubal ligation during cesarean section. Patients trusted that their physicians are professionals and they will treat them with the best of their knowledge. Instead, the physicians decided, without previously consulting with their patients, to sterilize them. This act damaged the role of the physician in the public eye and hurt the intrinsic trust of the patients in the medical profession as a whole.

Keywords: reproductive rights, involuntary sterilization, Roma women discrimination

Introduction

For decades, thousands of Roma women were involuntarily sterilized in Central and Eastern Europe during and after communism. The extent of these practices is exposed in detail in the 2003 report, *Body and Soul: Forced Sterilization and Other Assaults on Roma Reproductive Freedom in Slovakia*⁽¹⁾. According to the Ombudsman’s estimate, from the 1980s until today, as many as 90,000 women may have been sterilized throughout the territory of former Czechoslovakia⁽²⁾. This practice has spread to other, neighboring countries, such as Hungary and, according to some unofficial reports, Romania.

Case 1

In 2006, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee) established that Hungary didn’t respect the reproductive rights of a Roma woman⁽³⁾, by proceeding with a sterilization (by tubal ligation) during the cesarean section. The woman found out about this procedure only after surgery, and she asked the physician about the possibility to have another baby. She signed an Informed Consent Form, but she didn’t understand what the procedure meant (it was added in a hand-written note using the Latin word for sterilization). She was not informed about her condition, about the procedure, its effects and consequences.

Case 2

Eight women from Slovakia (of Roma origin), have filed a complaint against two hospitals in eastern Slovakia, accusing them of practicing forced sterilization of Roma women. Thus, during the birth by cesarean section, they have been sterilized. They did not know that they were signing for, not understanding the

contents of the Informed Consent and they asked to have access to medical records. They were refused the right the photocopy their medical documents. They accused Slovakian physicians of discrimination based on race and gender. The leadership of Prešov Hospital, one of the hospitals accused, explained that sterilization was done for medical reasons and with the consent of the patients. The Slovakian state failed to show the existence of sufficiently compelling reasons to deny the applicants effective access to information concerning their health. On 28th April 2009 judges of the European Court of Human Rights have unanimously condemned Slovakia for violation of Article 8 (i.e. the right to private life) guaranteed by the European Convention on Human Rights⁽⁴⁾.

Case 3

In August 2000, a 20 years-old woman from Slovakia was sterilized at the hospital in Prešov (Eastern Slovakia) during cesarean birth of her second child. Sterilization was done through fallopian ligation, consisting of cutting or blocking the fallopian tubes to prevent fertilization. In November 2011, the judges of the European Court of Human Rights have again condemned Slovakia for violating art. 3 (prohibition of torture or inhuman and degrading treatments) and art. 8 (private and family life). In the Court’s decision was specified that sterilization is never a procedure to save a life, and it cannot be carried out without the full consent and in full knowledge of facts by the patient, even if the doctors consider the future pregnancy to be a risk for the health or the life of the woman^(5,6).

According to the *Body and Soul Report*, published in 2003⁽¹⁾, thousands of women of Roma ethnicity were sterilized without their consent in Central and Eastern Europe countries during the communist regime

Received:
September 28, 2018
Revised:
October 15, 2018
Accepted:
November 03, 2018

and after the decline of communism. The countries mentioned for such practices were Czech Republic, Slovakia and Hungary.

There are many questions that must be answered, from both an ethical and legal point of view, regarding these practices, such as: What was actually done there? What were reasons for these practices? Who took the decision: physicians by themselves or some other decision-makers? What was the goal of involuntary sterilization?

Discussion

Paternalism. Practicing medicine means respecting ethical principles: autonomy, beneficence, non-maleficence, and justice. It is obvious that they did not respect any of principles of medical practice. Without proper consent, based on the understanding of relevant information, autonomy is breached. In particular circumstance, autonomy can be breached, but these are exceptions rather than rules in the current state of medical ethics. Some instances in which autonomy can be breached include therapeutic privilege, decisions taken by legal representatives that are clearly against the medical good of the patients, etc⁽⁷⁾. Most exceptions to the rule of obtaining informed consent are caused by the need to respect the principle of beneficence, which in some instances is stronger than autonomy; however, if this is the case, a proper analysis of the reasons why beneficence was preferred should be done by the physicians. This preference is also characteristic for a particular type of physician-patient relationship, namely the paternalistic one, which was prevalent in Eastern Europe until recently⁽⁸⁾. A paternalistic physician-patient relationship is accepted in particular circumstances (for a detailed analysis see Emanuel⁽⁹⁾). However, its use in clinical practice is nowadays accepted only if the patient seeks it, and if the procedure is clearly done for his/her benefit. In this case, some of those involved in these procedures affirmed that the sterilization was done due to 'medical reasons', or medical indications. Medical indications are "facts about patient's physiological or psychological condition that indicate which form of diagnosis, therapy, or education are appropriate"⁽¹⁰⁾. In our cases, as patients did not have appropriate information on what physicians are doing, they did not accept the consequences of these procedures and did not agree to be treated as merely 'things'.

The medical being of the patients cannot be, in no circumstances, used as a synonym to impeding a woman to have children, when there are no clear, medical reasons for it. Therefore, the declared conflict, between autonomy and beneficence, does not exist in these cases, and the act of the physicians doing it is plainly immoral. Moreover, by sterilizing only Roma women, they clearly acted against another fundamental ethical principle, namely justice, as they used the procedure solely on them (at least from what we know).

The reasoning for doing the procedure. Physicians have the right to recommend certain medical procedures, this being a fundamental part of their profession. Them acting with professionalism means "demands placing the interest of patients above those of physician, setting and maintaining standards of competence and integrity, and providing expert advice to society on matters of health"⁽¹¹⁾. In their practice, physicians must avoid discrimination and exploitation of patients for their own interests, profits, or reputation⁽¹¹⁾. To act professionally also means: respecting the primacy of patient welfare, the autonomy of the patient, and social justice.

The primacy of patient welfare means "dedication to serving the interest of the patient. Altruism contributes to the trust that is central to the physician-patient relationship. Market forces, societal pressures, and administrative exigencies must not compromise this principle"⁽¹¹⁾.

Respecting patient autonomy is also consider to be "empower patients to make informed decisions about their treatment"⁽¹¹⁾.

The medical profession must "promote justice in the health care system, including the fair distribution of health care resources. Physicians should work actively to eliminate discrimination in health care, whether based on race, gender, socioeconomic status, ethnicity, religion, or any other social category"⁽¹¹⁾. All these requirements were clearly not respected, and therefore the sterilization of Roma women cannot be assimilated, in any form, with medical professionalism.

Who decided to perform this procedure?

There was a large number of women subjected to these procedures, in different medical institutions, and by different physicians, over the course of many years. It is quite difficult to imagine medical doctors in European countries, practicing involuntary sterilization without some guidelines, written or oral. Was there anybody else, except the physician, who imposed or suggested these procedures? And if yes, who could it be: the hospital management, the head of the unity, politicians? If the answer to these questions is that it was someone else's decision, therefore physicians were only instruments for making others decisions. However, physicians should refuse to perform acts that are against the law, but also the general principles of medical morality. Moreover, if law and morality are opposed, physicians could act against the law, for the well-being of the patients, as done by some physicians during the Nazi regime⁽¹²⁾.

What was the purpose of this procedure?

In the end, no matter who has took the decision on involuntary sterilization, we were wondering what the purpose was: birth control on Roma population, stigmatization, execution of superior decisions? But these reasons have nothing to do with the goals of medicine. These practices are changing the nature of the medical profession. The medical profession was and still should be done for patients, respecting their preferences and the meaning of their lives⁽¹²⁾.

Conclusions

Why these cases are important? What did we learn from these cases? In the medical practice, physicians should act as professionals: be objective, neutral, serious and prepared, but also having compassion and treating patients with dignity. Acts such as these are malevolent for both the patients and the medical profession in general, as they generate loss of trust and confidence in medical doctors and hospitals. These cases show how ethical and professional principles

are tied to their responsibilities to fulfill the goals of medicine: treating patients with respect and dignity and preserve professional autonomy. Young generations of medical doctors should be educated in the spirit of medical ethics and professionalism, learning from the past, unfortunate experiences, in order to practice a real profession in this millennium. ■

Conflict of interests: The authors declare no conflict of interests.

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