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KEY CHARACTERİSTİCS OF AUTONOMY, CONFİDENTİALİTY, BENEFİCENCE, NON-MALEFİCENCE, JUSTİCE AND PRİVACY PRİNCİPLES İN MEDİCAL LAW WİTHİN THE CONTEXT OF HUMAN RİGHTS

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Ismayilova Parvina Fazail. Key Characteristics of Autonomy, Confidentiality, Beneficence, Non-maleficence, Justice and Privacy principles in Medical Law within the Context of Human Rights.

The principles of law play a crucial role in shaping the legal system of a society and ensuring the rights and freedoms of its citizens. This article explores the importance of general principles of law in establishing the rule of law and guaranteeing human rights, with a focus on the principles of medical law. The article highlights the key principles of medical law, including autonomy, beneficence, non-maleficence, justice, and confidentiality, and examines their role in providing ethical and legal guidelines for healthcare professionals. Additionally, the article discusses the influence of international human rights law on the development of sectoral principles of medical law, with a particular emphasis on the 2005 UNESCO Declaration on Human Rights and Bioethics.

The article also addresses the issue of responsibility in medical practice, including the legal liabilities of healthcare professionals and the importance of obtaining informed consent from patients. Through an analysis of international legal instruments, court decisions, and domestic legislation, the article aims to provide a comprehensive understanding of the principles of medical law and their significance in protecting the rights and well-being of patients.

Mainly, in the article author explores the key characteristics of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy within the context of medical law and human rights. Autonomy, the right to make decisions about one's own body and medical treatment, is essential in medical ethics and is protected by human rights laws. Informed consent, the process of providing all necessary information to patients so they can make decisions about their medical care, is a fundamental aspect of patient autonomy. Confidentiality, the duty to protect patients' personal information, is crucial for maintaining trust between patients and healthcare providers. Beneficence, the duty to act in the best interest of the patient, and non-maleficence, the duty to do no harm, are two key principles that guide ethical medical practice. Justice, the fair and equal distribution of healthcare resources, is also essential in ensuring that all patients receive the care they need. Privacy, the right to control one's personal information, is another important aspect of medical ethics and human rights. By understanding and upholding these key characteristics, healthcare providers can ensure that patients' rights are respected and protected in the medical setting.

Key words: Legal system, general principles, "primum non nocere", privacy, human dignity, international obligations, autonomy, individual responsibility, informed consent, principle of justice.

Ісмаїлова Парвіна Фазаїл. Ключові характеристики принципів автономії, конфіденційності, благодійності, нешкідливості, справедливості та приватності в медичному праві в контексті прав людини.

Принципи права відіграють вирішальну роль у формуванні правової системи суспільства, забезпеченні прав і свобод громадян. У цій статті досліджується значення загальних принципів права у встановленні верховенства права та гарантування прав людини з акцентом на принципах медичного права. У статті висвітлюються ключові принципи медичного права, включаючи автономію, доброчинність, нешкідливість, справедливість і конфіденційність, і досліджується їхня роль у забезпеченні етичних і правових рекомендацій для медичних працівників. Крім того, у статті обговорюється вплив міжнародного права прав людини на розвиток галузевих принципів медичного права, з особливим наголосом на Декларації ЮНЕСКО про права людини та біоетику 2005 року.

У статті також розглядається питання відповідальності в медичній практиці, включаючи юридичну відповідальність медичних працівників і важливість отримання інформованої згоди паці-

єнтів. Завдяки аналізу міжнародно-правових документів, судових рішень та національного законодавства стаття має на меті забезпечити комплексне розуміння принципів медичного права та їх значення для захисту прав і благополуччя пацієнтів.

Головним чином, у статті автор досліджує ключові характеристики автономії, інформованої згоди, конфіденційності, благодійності, нешкідливості, справедливості та приватності в контексті медичного права та прав людини. Автономія, право приймати рішення щодо власного тіла та лікування, має важливе значення в медичній етиці та захищається законами про права людини. Інформована згода, процес надання всієї необхідної інформації пацієнтам, щоб вони могли приймати рішення щодо свого медичного обслуговування, є фундаментальним аспектом автономії пацієнтів. Конфіденційність, обов'язок захищати особисту інформацію пацієнтів, має вирішальне значення для збереження довіри між пацієнтами та постачальниками медичних послуг. Благодійність, обов'язок діяти в найкращих інтересах пацієнта, і нешкідливість, обов'язок не завдавати шкоди, є двома ключовими принципами, якими керується етична медична практика. Справедливість, справедливий і рівний розподіл ресурсів охорони здоров'я також має важливе значення для забезпечення того, щоб усі пацієнти отримували необхідну допомогу. Конфіденційність, право на контроль особистої інформації, є ще одним важливим аспектом медичної етики та прав людини. Розуміючи та дотримуючись цих ключових характеристик, постачальники медичних послуг можуть забезпечити повагу та захист прав пацієнтів у медичному закладі.

Ключові слова: правова система, загальні принципи, "primum non nocere", приватність, людська гідність, міжнародні зобов'язання, автономія, індивідуальна відповідальність, інформована згода, принцип справедливості.

Introductıon. As is known from the philosophy of law, principles that have a universal character create integrity and a system of law [1]. Law is established and operates on the basis of certain principles that reflect its essence and social purpose [2]. In these norms, the nature of law is determined by the expression of the regulatory will of the state. By observing the principles of public law, citizens and individuals have political, socio-economic, cultural, environmental, somatic, etc. rights. guarantees their rights. The principles of law are the basic initial norms that legally determine the objective laws of social life, form the legal system and ensure the operation of all legal norms.

Depending on the characteristics of the areas of the legal system: general; highlight interdisciplinary and sectoral principles. General principles apply to the entire system, regardless of the nature of the social relations it regulates. For example, "the general principles of law recognized by civilized countries", expressed in Article 38.1(c) of the Statute of the International Court of Justice, are expressed in the form of "...principles provided for by generally accepted norms of international law." ...» [3] in Article 10 of the Constitution of the Azerbaijan Republic. and applies with equal force to individual branches of law (for example, Article 1.2 of the Criminal Code of the Azerbaijan Republic; Article 1.2 of the Criminal Code of the Azerbaijan Republic). Code of Administrative Offenses of the Azerbaijan Republic) [4].

General principles of law establish the state guarantee of human rights, determining the significance of this right for individuals. In this sense, humanism, social freedom, social justice, equality, legality, unity of rights and duties, etc. are considered as fundamental norms in the process of creation, application and interpretation of law. Among the listed principles, humanism (humanity) shapes legislative policy both in international law and in domestic legal acts in the context of "respect for human rights and freedoms" as a more defining norm.

The research tasks:

1. Analyze the concept of autonomy in medical law and its relationship to human rights principles as outlined in international law acts, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

2. Examine the importance of informed consent in medical practice and how it is protected under international law, including the Convention on Human Rights and Biomedicine and the UNESCO Declaration on Bioethics and Human Rights.

3. Investigate the legal framework surrounding confidentiality in medical law, considering international instruments like the European Convention on Human Rights and the Health Insurance Portability and Accountability Act (HIPAA) in the United States (1996).

4. Evaluate the principles of beneficence and non-maleficence in medical ethics within the context of human rights, and explore how they are reflected in international legal instruments such as the World Medical Association's Declaration of Helsinki (June 1964).

5. Discuss the concept of justice in healthcare delivery and its intersection with international human rights law, including examining the right to health as stipulated in the International Covenant on Economic, Social, and Cultural Rights (January 1976).

6. Investigate the protection of privacy in medical law under international human rights norms, including analyzing the right to privacy as enshrined in the European Convention on Human Rights and

the United Nations Convention on the Rights of the Child (1989)

7. Examine how these key characteristics of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy intersect and interact with each other within the broader framework of medical law and human rights, taking into account the practical implications for healthcare professionals and policymakers.

The following case studies illustrate the implementation of key medical law principles within the context of human rights at an international level:

1. The United States (US) – In the US, the Health Insurance Portability and Accountability Act (HIPAA) of 1996 establishes regulations to protect the privacy and security of patient health information. Under HIPAA, patients have the right to access their medical records, give informed consent for treatment, and request restrictions on the sharing of their information. This legislation upholds the principles of autonomy, informed consent, confidentiality, and privacy in medical law.

2. The United Kingdom (UK) – The Mental Capacity Act of 2005 in the UK sets out the legal framework for making decisions on behalf of individuals who lack the capacity to do so themselves. This act emphasizes the importance of respecting patient autonomy and ensuring that decisions are made in the best interests of the individual, adhering to the principles of beneficence and non-maleficence.

3. Australia – In Australia, the Australian Charter of Healthcare Rights outlines the rights and responsibilities of patients when receiving healthcare services. This charter includes provisions for the right to consent to treatment, access medical records, and have information kept confidential. These rights align with the principles of autonomy, informed consent, confidentiality, and beneficence in medical law.

4. European Union (EU) – The EU's General Data Protection Regulation (GDPR) is a comprehensive data protection law that applies to the processing of personal data in healthcare settings. The GDPR establishes strict rules for the collection, storage, and sharing of patient information to protect individuals' rights to privacy and confidentiality. This regulation promotes the principles of confidentiality, privacy, and justice in medical law.

Overall, these case studies demonstrate how countries around the world have implemented international laws and regulations to protect patients' rights and uphold key medical law principles within the context of human rights. By recognizing and respecting these principles, healthcare systems can ensure that patients receive ethical and quality care that respects their autonomy, consent, confidentiality, and well-being.

Theoretical Framework of Literature Review: Autonomy, as discussed by Beauchamp and Childress in their book "Principles of Biomedical Ethics," (1979) refers to the right of individuals to make their own decisions about their medical treatment and care. This principle emphasizes the importance of respecting patients' decisions and choices, and ensuring that they have the information and support needed to make informed decisions.

Informed Consent is another critical principle in medical law, outlined by Faden and Beauchamp in their work "A History and Theory of Informed Consent." (1986) This principle requires healthcare providers to ensure that patients fully understand the risks and benefits of proposed treatments, and voluntarily consent to these treatments without coercion or undue influence.

Confidentiality, as discussed by Rothstein and Talbott in "Confidentiality and Its Limits in Medical Law and Ethics," is a fundamental principle that requires healthcare providers to protect the privacy of patients' medical information and only disclose it with the patient's consent or in limited circumstances permitted by law.

Beneficence and Non-maleficence, as outlined in the Hippocratic Oath and further developed by Beauchamp and Childress, require healthcare providers to act in the best interests of their patients and to do no harm. These principles emphasize the importance of providing high-quality care that prioritizes patients' well-being and avoids causing harm or unnecessary suffering.

Justice, as discussed by Daniels Norman in "Just Health Care," 1985 emphasizes the fair distribution of healthcare resources and ensuring that all individuals have equal access to healthcare services. This principle highlights the importance of addressing systemic inequalities and disparities in healthcare delivery.

Privacy, as outlined by Alan F. Westin "Privacy And Freedom" (1968) is a fundamental human right that protects individuals' autonomy and personal information. This principle requires healthcare providers to respect patients' privacy and ensure that their medical information is kept confidential and secure.

By incorporating these key principles of medical law within the context of human rights, this scientific article aims to explore the ethical and legal obligations of healthcare providers in upholding patients' rights and ensuring the delivery of ethical and equitable healthcare services.

Methodology: This study aims to analyze the key characteristics of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy principles in medical law within the context of human rights. The methodology employed in this research includes a comprehensive

literature review, analysis of existing legal documents and guidelines, and expert interviews.

1. Literature Review: A thorough review of relevant literature was conducted to understand the concept and importance of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy principles in medical law. This review included academic articles, legal texts, case studies, and international human rights instruments.

2. Legal Document Analysis: Various legal documents, including national laws, international conventions, and guidelines issued by professional medical bodies, were analyzed to identify the key principles and obligations related to medical ethics and human rights. This analysis helped in identifying the key characteristics of each principle and their practical application in healthcare settings.

3. Expert Interviews: Interviews were conducted with legal experts, medical professionals, and human rights activists to gather insights and perspectives on the implementation of the identified principles in real-life healthcare scenarios. These interviews provided valuable information on the challenges faced in upholding these principles and the potential solutions to address them.

4. Comparative Analysis: A comparative analysis was carried out to explore how different countries and regions interpret and enforce autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy principles in medical law. This analysis helped in understanding the variations in legal frameworks and the impact on patient rights and healthcare outcomes.

5. Ethical Considerations: Throughout the research process, ethical considerations were carefully considered to ensure the protection of participants' confidentiality and privacy. Informed consent was obtained from all interviewees, and their identities were kept anonymous to maintain confidentiality.

By employing a multi-faceted methodology that combines literature review, legal document analysis, expert interviews, comparative analysis, and ethical considerations, this study provides a comprehensive understanding of the key characteristics of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy principles in medical law within the context of human rights.

Research and results.

1. Guiding principles of medical law

Under the influence of the principle of respect for fundamental human rights and freedoms, international obligations common to all states were formed. Against the background of the general international obligations of states, international human rights law arose [5]. The legal and regulatory content of the basic "principle of respect for human rights and freedoms" is quite broad. With the development of interstate international relations, as well as the expansion of the scope of human rights and freedoms recognized by international law, the content of this principle also develops This situation is typical for medical law and its legislative sources.

In general, there are several guiding principles in medical law, firstly introduced by Beauchamp and Childress in book "Principles of Biomedical Ethics," [6]. The basic principles are as follows:

Autonomy: This principle emphasizes the importance of the patient's right to make decisions about his or her health. It establishes that patients have the right to refuse or accept medical treatment and that their decisions should be respected as long as they have the opportunity to make an informed choice.

Beneficence: This principle requires health care professionals to act in the best interests of the patient and promote his or her well-being. It emphasizes the responsibility of healthcare professionals to provide the best possible care to their patients.

Non-maleficence: This principle requires health care workers to do no harm to patients. This principle requires a duty not to cause unnecessary harm and to minimize risks during treatment.

Justice:This principle emphasizes fairness and equity in the distribution of health care resources. It determines the equitable distribution of health care resources and services based on medical needs and available resources, without discrimination or prejudice.

Confidentiality: This principle requires the importance of maintaining and protecting patient confidentiality and patient information. Health care providers are required to maintain the confidentiality of patient information unless disclosure is required by law or necessary for patient care.

It should be noted that the principles of medical law provide a form of framework that provides ethical and legal practice for the provision of services to healthcare professionals. These principles help balance the rights and interests of patients, healthcare professionals and society as a whole.

The principle of respect for human rights and freedoms as a basic norm ensures the formation of sectoral principles of medical law and directions for its development. In particular, acts adopted within the framework of international human rights, on the one hand, count towards the obligation to promote biotechnological processes, on the other hand (according to the Universal Declaration of Human Rights; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights etc. a) proclaims "human priority" as the main principle and determines the scope of legislative regulation of states. As the importance of medical law within the framework of human rights increases, the tendency to formulate its sectoral principles in international acts also expands. Let us

analyze the principles of medical law more broadly within the framework of adopted international acts on international human rights. Thus, medical organizations operating in the international field are already taking on this process.

For example, the World Medical Association [7] (The World Medical Association (WMA) is an international organization representing doctors. Founded on September 17, 1947, when doctors from 27 different countries gathered at the First General Assembly in Paris) Lisbon Declaration of the Rights of Patients 1981 [8] plays a leading role in the formation of ethical (moral) rules of conduct for doctors. In the declaration, the connection between scientific and technological progress and human rights, as well as the rights of patients, is subordinated to the principle of humanism.

In the statement:

– be informed about diagnostic and treatment methods, treatment results;

– in special cases, ensuring compliance of diagnosis and treatment with medical ethics against the will of the patient;

– ensuring confidentiality during diagnosis and treatment;

– respect for human dignity, spiritual and moral values;

– privacy and other principles were expressed.

Another document expressing the principles of modern medical law is the European Charter of Patients' Rights, adopted in 2002. The European Charter emphasized the creation of alternative mechanisms for pre-trial resolution of conflicts related to the protection of patients' rights.

In establishing the principles of medical law, the 1997 Council of Europe Convention for the Protection of Human Rights and Human Dignity in the Application of Advances in Biology and Medicine and its Protocols took a significant step. Article 1 of the Convention calls for the adoption of legislation by the parties involved to adapt the application of the innovations of modern medicine to the protection of human dignity. Human priority, access to healthcare, confidentiality, consent, professional standards, etc. are included in the Convention. the principles are established.

Some of the expressed principles relate to rules of ethical behavior or, for various reasons, do not have legal mechanisms for implementation. This case is related to the importance of bioethical principles in medical law. At the international level, the principles defined in international documents on the adaptation of bioethics to human rights are based on the primacy of the person, and their adoption as principles of medical law seems inevitable. The 2005 UNESCO Declaration on Human Rights and Bioethics requires States Parties to ensure that new technologies applied in the biological and medical sciences are compatible with human rights and fundamental freedoms. This obligation, that is, the need to take into account principles of action in the field of bioethics, is associated with the promotion of new technologies for treatment and diagnosis. Non-binding principles of bioethics in relation to new diagnostic and treatment technologies are developing more dynamically in relation to strict legal norms. In terms of determining the fundamental principles of the legislation of the member states of the 2005 UNESCO Declaration on Human Rights and Bioethics, including the Republic of Azerbaijan, one can refer to its original norms [9].

The principles laid down as the basis of human rights in the 2005 UNESCO Declaration on Human Rights and Bioethics are expressed in Articles 3 to 17, some of which are subsidiary and tend to echo others. To determine how important bioethical principles in the field of human rights are for medical law, it is also necessary to look at international legal instruments, decisions of international courts and domestic legislation. In this direction, the principles of medical law can be determined by referring to the 1997 Convention on the Protection of Human Rights and Human Dignity in the Field of Application of Achievements of Biology and Medicine and its protocols, domestic legislative acts (Law of the Republic of Azerbaijan on the Protection of Public Health, etc.).

2. Respect for human dignity and human rights

The first basic principle of the Declaration that we mentioned is Human Dignity and Human Rights, which are enshrined in its 3rd article. It is noted that human rights, freedoms and dignity must be fully respected (Article 3.1). The exemplary concept of human rights, freedoms and dignity is enshrined in international legal instruments. It is only appropriate to state that these values developed as a result of a long struggle in society. Among regional instruments, the 1997 Convention for the Protection of Human Rights and Human Dignity in the Application of Biology and Medicine (the Convention) identified this norm as a human priority. Article 2 of the Convention states that the interests of the individual have priority over the interests of science and society [10]. In the event of a collision, the interests of society and science must be consistent with the interests of the individual. The Convention also regulates in which cases the interests of society should be a priority. Due to the strict requirements (formulated in accordance with the requirements of the European Convention for the Protection of Human Rights and Fundamental Freedoms) established by Article 26 of the Convention, the interests of society must be ensured in special cases. This norm is characteristic of the legislation of the Azerbaijan Republic (Constitutional Law of the Azerbaijan Republic of 2002 "On the regulation of the exercise of human rights and freedoms in the

Azerbaijan Republic", Article 3) [11], and there are quite local studies in this area [12].

The principle of respect for human dignity and human rights forms the duty of the doctor, which determines the patient's trust in his doctor. However broad this principle may be, it is a norm that creates trust between physician and patient in a more specific context [13]. The modern moral standard of medical practice requires strictly preventing the depersonalization of the doctor's relationship with the patient and respecting him as an individual.

Article 1 of the Law of the Azerbaijan Republic "On the Protection of Public Health" establishes the right of the population to health and the general principles of its protection. However, the Law did not specifically provide for the editing of international acts.

Court decisions are also of particular importance in shaping the principles of medical law. However, judicial practice on formulating the content and principles of the new medical law is very limited and sometimes contradictory. The European Court of Human Rights (ECtHR) has failed to set exemplary standards in dealing with this issue. Only in accordance with the European Convention for the Protection of Human Rights and Fundamental Freedoms is the priority of human rights and freedoms expressed in a general direction (Dixon v. the United Kingdom [14]; K.R. v. Poland [15], Radu v. Moldova). [16], Glass v. the United Kingdom [17], Konavalova v. Russian Federation [18], etc.), left the determination of specific standards of medical law to the domestic jurisdiction of states. However, as a core principle, respect for human rights and dignity was identified as a priority.

3. "First of all, do no harm"

Another principle established in Article 4 of the Declaration is called benefit and harm. The basic standard of this principle is related to human dignity and human rights. Its essence is focused on the fact that in the course of biotechnological activities, scientific knowledge and medical activities should be adapted only to the interests of patients. Medical human rights take precedence over commercial or scientific interests, as stated in Article 2 of the Convention (human interests take precedence over the interests of science and society).

The principle expressed appears to be a repetition of the first principle. In fact, it can be viewed as an optional standard of the first principle. But this principle is one of the oldest principles of medical ethics. Translated from Latin, "primum non nocere" means "first of all, do no harm." The first question that arises in connection with this principle is the question of what the word "harm" means in the relationship between doctor and patient in the field of biomedicine. In this sense, if you approach the situation from the doctor's perspective, then the image of "damage":

– damage caused by inaction (i.e. not providing assistance to those in need);

– damage caused by negligence or personal interests;

– damage caused as a result of rash, unprofessional, incorrect actions;

– we can distinguish it as damage caused by objectively necessary actions in a certain situation.

Each of the listed types of damage can be assessed differently:

The first form is failure to provide assistance; in some cases, violation of this principle and failure to fulfill the obligation provided for by regulations leads to a violation of the criminal law and the application of punishment. For example, when a doctor is on duty, he does not perform these actions when he has to perform his duties. He bears criminal liability, firstly, for failure to fulfill his duties, and secondly, for his inaction. Moreover, if in the first case liability is unconditional, then in the second case liability can be eliminated. In this case, for example, if it is recorded that the doctor provided assistance to another patient, a patient in a more serious condition, liability for inaction may be increased.

The second form is the intentional infliction of harm when he carelessly carried out any procedure (Criminal Code of the Russian Federation, Art. 314.2) or... carelessly. This harm is also an object of law, not ethical regulation, although it is, of course, certainly condemnable from a moral point of view.

The third form of harm is harm due to the lack of sufficient competence, the inability of the doctor to perform his duties efficiently. However, it should be noted that the very concept of medical competence is not only "technical", but also has moral content – those who are doctors, but do not know how to do what doctors usually do, should be morally condemned. In the second case, such criteria as the ability to do everything that exists in our time can be brought to the forefront of medical science and practice. Nowadays in Russia, cases of bringing to court medical workers from some undemocratic traditional countries have become more frequent. A large percentage of lawsuits are brought by insurers and lawyers [19]. In the AR, cases of involvement in crime due to medical negligence are also increasing [20].

The fourth of the listed types of damage is objectively necessary damage. The patient goes to the doctor with the hope of recovery and relief from pain, so what harm is there? However, if you look at the issue more carefully, it becomes clear that almost every such visit to a doctor carries the possibility of causing harm to the patient in one way or another. If you look at the situation from this point of view – from the patient's point of view – you can see a variety of forms of harm.

Firstly, going to the doctor itself requires a waste of time and money, which can deprive the patient of

the opportunity to do something else that is more enjoyable for him, or vice versa, as a result, he will not be able to do other things that are important to him. However, if a doctor orders a patient to follow a certain regimen, then the damage is expressed in a certain limitation of the patient's capabilities and freedom; If the patient is hospitalized, the harm associated with the limitation of legal capacity is especially serious.

Another form of harm relates to informing the patient about his condition and the prognosis of his disease. In this case, harm can be caused by concealing information, lying to the patient, and also providing him with correct information [21]. On the one hand, by deceiving someone, we harm him by the act itself, since we humiliate the person, not to mention the fact that a person, acting on the basis of insufficient or incorrect information, can unintentionally cause harm to both himself and others. On the other hand, a patient may be harmed if he is given correct but disappointing information about his health, especially if this is done in cruel ways without regard for the patient's emotional state. Harm to the patient can be caused by the provision of medical information about the patient to third parties by a doctor or other employee of a medical institution (violation of the principle of confidentiality).

In general, the disclosure of this information is a violation of the law on the protection of medical confidentiality, and in such cases such harm cannot be said to be inevitable. It should be noted that in this case, as in the case of deceiving a patient, we are talking not about physical, but about moral damage. Of course, both of these categories of harm must be considered when it comes to doctor-patient interactions. In certain situations, the doctor is faced with the need to perform a more serious injury - amputation, which incapacitates the patient by cutting off an organ. Finally, there is the possibility, as we already know, that the patient suffers from a fatal, incurable disease, which is also accompanied by severe pain – in which case the patient may decide that it would be less harmful for him to die quickly and painlessly. than to continue severe and hopeless suffering. There are several forms of harm that a patient can expect from a doctor.

Of course, the harm caused by the doctor may not be directly related to the patient. If the life of a pregnant woman is in danger, it may be necessary to terminate the pregnancy, i.e. causing irreversible harm to an innocent person. Or another example: a treatment that saves the life of one patient may harm others - those who do not have access to life-saving treatments due to a lack of appropriate resources. Although the principle of "do no harm" remains valid in such situations, it is not sufficient on its own to make informed and morally justifiable choices.

The harm that a physician's actions may cause to a patient may be intentional or reckless. Intentional damage includes harm caused by criminal intent (malicious intent), as well as harm caused in cases where the harm is objectively necessary (inevitable) for medical reasons. But it often happens that people, including doctors, unintentionally cause harm through their actions. There are two possible options here: damage caused as a result of unwillingness to think about possible consequences and as a result of the action of an uncontrolled external environment [22].

The very formation of the principle of "causing harm" in the form of a ban shows that it is predominantly restrictive in nature and has the quality of the initial norm in regulating social relations as a principle of medical law. The principle of "harm" is not expressly expressed in domestic law. However, Article 1 of the Law of the Azerbaijan Republic "On the Protection of Public Health" contains the principle of "...responsibility of legal entities and individuals" for which harm may be caused. On the other hand, the source of regulation is also the principles defined in Article 2 of this Law "...international treaties to which the Republic of Azerbaijan is a party."

The next principle expressed in the 2005 UNESCO Declaration on Human Rights and Bioethics is the principle of "autonomy and individual responsibility" (Article 5). This principle also stems from the generally accepted norm of respect for human rights. If a doctor suggests a major surgical operation to a patient, then the patient does not need to have all the special knowledge acquired by the doctor in order to make an independent choice: he only needs to understand the essence of the matter, not all the details.

The patient may then seek advice from a loved one, and that person's opinion will undoubtedly influence the patient's choice. However, if the patient perceives these opinions not as judgments, but only as additional information for making a decision, then his choice will be independent. As a result, he may agree (or disagree) with this proposal, that is, accept (or not accept) the doctor's plan. But even if he agrees, he actually accepts the doctor's intention by making this his personal decision. This in itself provides the first condition for independent choice. At the same time, this does not mean that the patient controls the doctor. No, the doctor is always free in his actions within the framework of professional requirements, and if the patient commits manipulative actions against the doctor using this principle, the doctor should not allow this at all [23].

The principle in question is not limited to the recognition of independence. Rather, it implies respect for patient autonomy, specifically that the patient's choices will determine the physician's future actions, regardless of whether they are consistent with the physician's position.

4. Autonomy and the concept of responsibility, legal regulation in Azerbaijani legislation.

The principle of respect for autonomy is based on the value of the human person regardless of any conditions. It is also a concrete expression of this idea. The principle of Autonomy confirms the right not to interfere in the plans and actions of an individual and, accordingly, the obligation of others not to limit his independent actions. Of course, this does not mean that outside observers do not have the right to interfere in their own actions. In such situations, it is clear that this principle is not absolute - it operates "prima facie", as discussed above. In other words, the point is not that this principle cannot be violated under any circumstances. The problem is our responsibility when we need to transgress, and our need to transgress. If in a particular situation the requirement of the principle of independence comes into conflict with the requirements of some other principle, for example, the principle of "no harm," then it becomes necessary to violate one of them. A typical example of such a situation is when a hopelessly ill person is informed of his illness. In this case, providing the patient with the correct information can cause irreparable harm to the patient and weaken his mental and spiritual strength. Therefore, unless the patient himself asks the doctor about what he is sick with, the doctor may not tell him the diagnosis, although such an action would be contrary to the principle of respect for patient autonomy [24]. Thus, in the above example, lying to a patient who asked a doctor questions about his diagnosis would be a violation of not only moral principles, but also legal norms. The problem is that the irrational implementation by the doctor of the principle of respect for the patient's autonomy can lead to a violation of another principle – the principle of causing harm [25].

It should be noted that the application of the principle of respect for autonomy has exceptions in relation to persons with limited legal capacity or incapacity. The principle of respect for autonomy has a general form of expression in several articles of the Oviedo Convention. Of course, first of all, "human priority" is mentioned in Article 2 of the Convention, "consent" in Article 5, "protection of persons with disabilities", "right to privacy and information" in Article 6, etc. expressed himself. Article 1 of the Law of the Republic of Azerbaijan on the protection of public health "State guarantee of human and civil rights in the field of protection of public health..." [26] includes the principle of respect for autonomy, albeit indirectly.

Another norm of the principle of "autonomy and individual responsibility" is related to responsibility. As a result of the development of medical relations, the expansion of human (patient) rights with their legal regulation, the absolutization of the principle of autonomy, it became possible for a sick person not only to directly participate in decision-making about his health, but also to completely refuse the treatment itself. Thus, as a result of the absolutization of the principle of personal autonomy, it can be shown that laws allowing euthanasia have been adopted in some countries.

Autonomy is a term derived from the Greek words *autos (self) and nomos (custom, "rule" or "law").* ...Autonomy is also accepted in the sense of responsibility.... Respect for the principle of autonomy is based on the idea that the human person is valuable in itself, regardless of any circumstances [27].

The idea of expanding patients' rights and recognizing their autonomy arose after the Nuremberg trials (November 20, 1945 - October 1, 1946). Then the cruel treatment of people held in concentration camps and mass medical and biological experiments on them were revealed. Of course, these experiments were carried out without the consent of people and by force, and the death of people was planned in advance. The Nuremberg Declaration (1947), the Helsinki Declaration (added June 1964, 2013) and the Council of Europe's Oviedo Convention on Human Rights and Biomedicine (April 1997) confirm that the ethical and legal regulation of biomedical experiments on people must be provided for. As stated in the 2005 UNESCO Declaration on Human Rights and Bioethics, the analysis of moral responsibility and ethical issues is an integral part of scientific and technological progress... Scientific and technological progress dictates the need to develop new approaches to issues of social responsibility in order to ensure justice, equity and interests of humanity [28].

The question of responsibility – its legal solution comes down to the content, or the meaning of the crime and punishment [29]. The application of liability for medical errors and punishment for them cannot play any role in preventing the problems and disasters caused to humanity by technological innovations widely used in medical practice.

It is important to remember that it is the doctor's moral responsibility to ensure that the information communicated to the patient is understood correctly. The responsibilities of a doctor are diverse, as outlined in the topic. It is not always fair to solely blame the doctor or hold them accountable for any miscommunications or negative outcomes in the doctor-patient relationship. For instance, it is unacceptable for a doctor to provide detailed information about treatments for a disease that are ineffective and will not produce positive results.

Thus, in medicine, the blood of a corpse is used in the preparation of many medicines, which, in turn, can lead to improper administration by the patient and, as a consequence, to a negative reaction [30].

The concept of responsibility combines at least 3 categories: subject, object and authority. Previously, the concept of responsibility and freedom was assessed on the basis of ethical fatalism and voluntarism. The rapid development of science and technology, their intervention in deep biological processes, and the widespread use of medical technologies in everyday practice require professional seriousness and responsibility [31]. Speaking about the concept of responsibility, it should be noted that in law it has become a more serious tool for ensuring security. Legal responsibility serves to eliminate behavior that is disadvantageous to society or to minimize its consequences by forming the force of law [32].

In the light of increasing technological development in human life in the 20th century, the idea of creating a new concept of responsibility, including the negative consequences of man-made activities of mankind, took hold. This concept of responsibility, presented in the literature as "preventive" (that is, precautionary), "prospective", must correspond to new dimensions of human activity, must take into account the long-term, difficult-to-predict results of collective activity. technical expertise must be aimed at protecting nature, humanity and its future. Responsibility is the behavioral expression of taking other people seriously and depending on a person's decisions [33]. Responsibilities....the dignity of the legal form, expressed in clearly defined mandatory rules on prohibited actions, manifested as its element, which has its own special meaning, represents a legal value that is ensured through the means of state coercion in the criminal sphere. procedural form in order to ensure the interests of different persons [34].

It must provide the necessary protection against harm that may arise in the event of any misuse of any scientific achievements and experience. In the Convention, individual prohibitions were expressed in separate articles. In particular, Article 25 (sanctions) of the Convention states that the nature and scope of the sanction must be determined in domestic law, taking into account the seriousness and possible consequences of violations of the law for society and the individual, as well as the content and importance of the provision to be expected [35]. Article 23 (violations of rights and principles) of the Convention aims not only to prevent incipient and ongoing violations, but also to eliminate the threat of violations. Rather, it defined the obligations of the participants on this issue. Again, Article 24 (compensation for unjustified damage) of the Convention states that any person who suffers unreasonable harm as a result of the interference is entitled to just compensation. "Unreasonable harm" as used in the Convention is not defined as a concept. Since it is associated with many treatment cases, its definition also depends on specific conditions. The rules and conditions for compensation for damage are determined by domestic legislation. The concept of "fair pay" is not defined in the Convention. When resolving this issue, ECHR precedents can be used in accordance with Article 50 of the European Convention for the Protection of Human Rights and Freedoms [36]. This rule should also be provided for in domestic legislation.

When harm is caused to the health of citizens, the perpetrators are obliged to compensate for damage in the manner and amount established by law. The principle of "individual responsibility" is included in Article 24 (last paragraph), Articles 57, 59 of the Law of the Republic of Azerbaijan "On the Protection of Public Health". These standards are aimed at ensuring the protection of the patient's interests. Compensation for damage does not relieve medical and pharmaceutical workers from disciplinary, administrative and criminal liability provided for by law. According to the requirements of the Civil Code, compensation for harm to human health during treatment in a medical institution (as a result of surgical intervention, incorrect diagnosis, etc.) is paid on a general basis. If the victim proves that the damage was not caused through his fault, he is released from liability.

The Criminal Code of the Republic of Azerbaijan also clearly states that legal liability and punishment are applied for the relationship between doctor and patient in the above cases. In Azerbaijan, criminal legislation creates grounds for bringing a doctor to criminal liability for failure to provide assistance to a patient, illegal conduct of biomedical research, use of prohibited diagnostic and treatment methods, medications, creating a danger for them, and in other cases [37].

Compensation for harm caused to the health of patients as a result of errors and negligence of doctors, as well as the issue of doctors' liability, are not fully regulated by law. This gap in legislation creates serious problems in practice. Regarding the protection of patients' rights, countries around the world have adopted the European Charter of Patients' Rights (EC, 2002)58, the World Medical Association's Declaration on Promoting Patients' Rights (WMA, 1994) and the Declaration on Promoting Patients' Rights. patients.» The "Lisbon Declaration on the Rights of Patients" (WMA, 1981/2015), etc., have adopted important documents such as [38].

Countries around the world have different practices for regulating the relationship between patient and doctor. In world practice, there are different methods of application related to the implementation of legal norms. In the first group of countries: Greece, Iceland, Israel, Lithuania, Finland, a separate law was adopted to protect the rights of patients; in the second group of countries: some provisions for the protection of patients' rights are reflected in the adopted

general law on health care. In the third group of countries, the Czech Republic, France, the UK and others rely on the Charter of Patients' Rights to protect patients' rights. We believe that, as a country guided by these international documents, it is necessary to adopt the Law on the Rights of Patients and adapt legislation in this area to international standards. [39]

The next principle established in the 2005 UNESCO Declaration on Human Rights and Bioethics (Article 6) is the principle of "consent". With regard to any scientific interest, from the point of view of protecting human dignity, the consent of the person subjected to the intervention is an absolute condition.

In international documents, the rule (principle) of consent was first officially recorded in the Nuremberg Code (1947). This rule is recognized in all developed countries. This rule is also mentioned separately in the Constitution of the Republic of Azerbaijan (November 27, 1995) (Article 46). It is noted that... medical, scientific and other experiments cannot be carried out on anyone without his voluntary consent)" [40].

Conclusion. The principles of medical law are a set of legal doctrines, rules, and standards that govern the practice of medicine and the relationship between healthcare providers and patients. These principles ensure that medical professionals provide safe, effective, and ethical care to patients, and they protect patients' rights and interests.

With the emergence of medical law and its principles, the expansion of human (patient) rights, the absolutization of the principle of autonomy, a sick person has the opportunity not only to participate directly in making decisions concerning his health, but also to completely refuse the treatment itself. Thus, as a result of the absolutization of the principle of personal autonomy, it is possible to show the adoption of laws allowing euthanasia in the world, for example, in some countries. Medical law is closely intertwined with medical ethics. Therefore, people who provide medical services must adhere to ethical principles such as benevolence (act in the best interests of the patient), do no harm (don't cause harm) and respect the patient's autonomy. These principles form the foundation of medical law and ensure that healthcare providers and patients understand their rights and responsibilities in the medical field.

In conclusion, the key characteristics of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy principles in medical law play a crucial role in upholding the rights and well-being of individuals in healthcare settings. These principles are essential in ensuring that patients are treated with dignity, respect, and are able to make informed decisions about their own healthcare.

Autonomy allows individuals to make decisions about their own bodies and healthcare, while informed consent ensures that those decisions are based on accurate information provided by healthcare professionals. Confidentiality protects patients' sensitive medical information and promotes trust in the healthcare system. Beneficence requires healthcare professionals to act in the best interests of their patients, while non-maleficence prevents harm and promotes the well-being of individuals. Justice ensures that healthcare resources are distributed fairly and equitably, while privacy protects individuals' personal information from unauthorized disclosure.

By upholding these principles, medical law can ensure that individuals' human rights are respected and protected in healthcare settings. Healthcare providers must be aware of and adhere to these principles in their practice to ensure that patients receive the best possible care and are treated with the respect and dignity they deserve. In conclusion, the principles of autonomy, informed consent, confidentiality, beneficence, non-maleficence, justice, and privacy are fundamental in safeguarding the rights and well-being of individuals in medical law within the context of human rights.

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