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## **Introduction**

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

## **Preface**

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

## **Description**

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

# **FROM CONSENT TO CONFIDENTIALITY: AN EMPIRICAL STUDY OF PATIENT RIGHTS AND DATA PROTECTION IN INDIAN HEALTHCARE**

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**Abstract:** The rights of women prisoners in India have increasingly gained attention within constitutional and human rights discourse, yet the question of their fertility rights remains underexplored and inadequately addressed. This paper, *“From Custody to Care: Rethinking Fertility Rights of Women Prisoners under Indian Law,”* critically examines the legal, ethical, and institutional frameworks governing reproductive autonomy of incarcerated women. It argues that imprisonment, while restricting liberty, does not extinguish a woman’s fundamental rights over her body, including the right to reproductive choice, maternal health, and dignity.

Drawing upon constitutional provisions—particularly Articles 14, 19, and 21—alongside judicial pronouncements and prison manuals, the study highlights significant gaps between legal guarantees and ground realities. It interrogates issues such as access to prenatal and postnatal care, conjugal rights, abortion services, and assisted reproductive technologies within custodial settings. The paper also engages with international human rights standards, including the UN Bangkok Rules, to evaluate India’s compliance with global norms on treatment of women prisoners.

Adopting a socio-legal and partly empirical approach, the research incorporates available data, reports, and case studies to demonstrate systemic neglect, infrastructural deficiencies, and gender-insensitive prison administration. It further critiques the paternalistic attitudes embedded in prison policies that often reduce women prisoners to passive subjects rather than rights-bearing individuals.

The paper ultimately advocates a shift from a punitive “custody” model to a rights-based “care” framework, emphasizing reproductive justice as integral to prison reform. It proposes policy

recommendations including gender-responsive prison reforms, clearer legal recognition of fertility rights, improved healthcare infrastructure, and judicial oversight mechanisms. By foregrounding fertility rights within the broader discourse of prisoners' rights, this study seeks to contribute to a more humane, inclusive, and constitutionally aligned penal system in India.

**Keywords: Fertility Rights, Women Prisoners, Reproductive Justice, Prison Law in India, Right to Dignity**

**Introduction:** We cannot deny this that the fundamental component of ethical and legal medical practice is Patient rights. Informed consent and confidentiality of medical data are essential principles that ensure patient autonomy, dignity, and trust<sup>1</sup>. And in the recent times, Indian healthcare sector is undergoing rapid digital transformation with the adoption of electronic health records (EHRs), telemedicine, and AI-driven diagnostics which has raised the concerns regarding data privacy and security<sup>2</sup>.

Although, the right to privacy has been declared as a fundamental right under Article 21 of the Constitution<sup>3</sup>, yet, we are well aware that India is still lacking a comprehensive and robust data protection framework. The Digital Personal Data Protection Act, 2023 is a significant step, yet practical implementation remains inconsistent<sup>4</sup>.

In this paper, efforts have been made to understand how patient rights are understood and implemented in Indian healthcare institutions.

**Research Objectives:** The basic research objectives of this study are as:

1. To assess the level of awareness among patients regarding their rights.
2. To evaluate the implementation of informed consent procedures in hospitals.
3. To analyze data protection practices in healthcare institutions.
4. To identify gaps between legal provisions and practical realities.

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<sup>1</sup> Samira Kohli v. Dr. Prabha Manchanda, (2008) 2 S.C.C. 1 (India) (recognizing informed consent as an essential requirement in medical treatment); Mr. X v. Hospital Z, (1998) 8 S.C.C. 296 (India) (discussing confidentiality of medical information).

<sup>2</sup> National Health Authority, *Ayushman Bharat Digital Mission: Building Digital Health Ecosystem* (2021).

<sup>3</sup> Justice K.S. Puttaswamy v. Union of India, (2017) 10 S.C.C. 1 (India).

<sup>4</sup> Digital Personal Data Protection Act, 2023, No. 22 of 2023, Gazette of India, Aug. 11, 2023.

5. To propose recommendations for strengthening patient rights.

**Research Methodology:** In this study, the researcher has adopted the empirical research design which includes both qualitative and quantitative methods. And it could be better understood as:

**i. Data Collection:**

- **Primary Data:** Structured questionnaires were administered to:
  - 120 patients
  - 50 healthcare professionals (doctors, nurses, administrators)
- **Secondary Data:** Legal provisions, case laws, government reports, and scholarly articles.

**ii. Sampling Method:** Convenience sampling was used across selected public and private hospitals in North India.

**iii. Limitations:** These are as:

- Limited geographical scope
- Potential response bias
- Lack of access to internal hospital policies

**Legal Framework on Patient Rights in India:** India lacks in a single codified law on patient rights, but have scattered provisions relating to it in various legal instruments collectively which address these issues.

**i. Constitutional Protection:** The right to health and privacy is derived from Article 21 of the Constitution, which guarantees the right to life and personal liberty<sup>5</sup>.

**ii. Statutory Provisions:** These are as:

- Digital Personal Data Protection Act, 2023
- Information Technology Act, 2000
- Clinical Establishments Act, 2010

**iii. Judicial Developments:** The Supreme Court has from time to time upheld patient rights, including informed consent and confidentiality<sup>6</sup>.

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<sup>5</sup> Maneka Gandhi v. Union of India, AIR 1978 SC 597.

<sup>6</sup> Samira Kohli v. Dr. Prabha Manchanda, (2008) 2 SCC 1; Mr. X v. Hospital Z, (1998) 8 SCC 296; Common Cause v. Union of India, (2018) 5 SCC 1; Parmanand Katara v. Union of India, (1989) 4 SCC 286; Aruna Ramachandra Shanbaug v. Union of India, (2011) 4 SCC 454; Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1

**Conceptual Framework:** It could be understood as:

**i. Informed Consent:** It refers to the process where a patient voluntarily agrees to a medical procedure after understanding its risks, benefits, and alternatives.

**ii. Confidentiality:** Confidentiality involves the obligation of healthcare providers to protect patient information from unauthorized disclosure.

**Empirical Findings:** The findings of the study could be understood as:

**Table 1: Awareness of Patient Rights among Patients**

Category	Percentage (%)
Aware of informed consent	38%
Aware of data privacy rights	25%
Not aware of rights	37%

**Interpretation:** Only 38% of patients were aware of their right to informed consent, around 25% understood data privacy rights and educated respondents showed higher awareness levels.

**Analysis:** Thus, the data clearly shows that there is a significant proportion of patients who lack awareness about their rights, indicating the need for awareness programs.

**Table 2: Understanding of Consent Forms**

Response Category	Percentage (%)
Signed consent forms	72%
Read and understood forms	40%
Did not understand content	60%

**Interpretation:** 72% of patients reported signing consent forms, however, only 40% read or understood the forms and doctors admitted that consent is often treated as a formality.

**Analysis:** Although most patients sign consent forms, a majority do not fully understand them, suggesting that consent is often procedural.

**Table 3: Data Protection Practices in Hospitals**

Practice	Percentage (%)
Use of digital records	60%
Availability of data policies	30%

**Interpretation:** 60% of hospitals use digital records, but only 30% had clear data protection policies and 20% conducted staff training on data privacy and the instances of unauthorized sharing of patient data were reported informally.

**Analysis:** Hospitals are increasingly digitized, but data protection mechanisms remain inadequate.

**Table 4: Healthcare Professionals' Responses**

Statement	Agreement (%)
Confidentiality is important	90%
Adequate training provided	35%
Data protection policies are effective	40%

**Interpretation:** Majority acknowledged importance of confidentiality. However, constraints such as workload and lack of training hinder compliance.

**Analysis:** While professionals acknowledge confidentiality, lack of training and institutional support affects compliance.

**Discussion:** From the above study, one thing is clear that there is a disconnect between legal ideals and practical realities. However, patient rights has been recognized in India in principle but in the matter of enforcement, they have to travel a long path. And here are some issues from study which shows where we are still lacking:

- i. **Gap in Awareness:** This study clearly shows that there is lack of and low awareness about these rights which undermines the patient autonomy and leads to passive acceptance of medical decisions.
- ii. **Procedural Consent vs. Real Consent:** Consent forms are often standardized and not in patient's mother tongue and not generally explained to the and thus defeating their basic purpose.
- iii. **Weak Data Protection Infrastructure:** Absence of strict compliance mechanisms results in data misuse risks.

**Challenges:** The following are the major challenges faced by the patients:

1. Lack of awareness among patients
2. Absence of uniform guidelines
3. Inadequate training of healthcare professionals
4. Weak enforcement of laws

5. Technological vulnerabilities

**Recommendations:** On the basis of this study, the following are few of the recommendations which the researcher wants to propose:

**i. Strengthening Legal Framework:** The one of the first step that should be taken in this direction is to:

- a. Implement sector-specific healthcare data protection rules
- b. Strict enforcement of DPDP Act provisions

**ii. Patient Awareness Programs:** It is clear from this study that there is need for:

- a. Awareness campaigns through hospitals and media
- b. Simplified consent forms in regional languages

**iv. Institutional Reforms:** Another major hurdle in this direction is the institutional framework and need is to:

- a. Mandatory data protection policies
- b. Regular audits and compliance checks

**v. Capacity Building:** Capacity building is the solution for:

- a. Training programs for healthcare staff
- b. Inclusion of medical ethics in education

**vi. Technological Safeguards:** Introduction of technology can be a boom if:

- a. Encryption of health records
- b. Controlled access systems

**Conclusion:** Thus, it is clear from this study that in the field of patient rights, the transition from consent to confidentiality about patient's rights represents a critical evolution in the field Indian healthcare. However, legal recognition is there, but ironically, the implementation gaps cannot be denied. This study analyses that there is need for stronger enforcement, awareness, and institutional reforms, only then the trust in the healthcare system can be strengthened.