



**THE GROWING NEED FOR  
LEGALLY ADOPTING THE  
PATIENTS' RIGHTS CHARTER IN  
INDIA**

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**ABSTRACT**

The need to address the issue of protecting and promoting the Rights of Patients has become more evident now than ever with the onset of the COVID-19 pandemic caused by the novel Coronavirus. In a war-like situation where humans are afraid not of any weapons but of other human beings, there is a dire need to have a calibrated set of legal remedies so that the patients and people associated with them can avail them for addressing their grievances. The patients suffering from severe and fatal diseases caused by many factors (one of them being the COVID-19 pandemic) already face a lot of issues in their recovery process, be it the extremely expensive hospital fees or the medications of the lack of access to the healthcare system; and the lack of legal remedies should not be one of them. Therefore, there is an increasing need of promoting patient advocacy, especially in the Indian context where there are a considerable number of cases of patient abuse (both reported and unreported) in one way or the other. On these lines, this article tries to assess and further explain the rights of the patients covered in the 'Charter of Patients' Rights' [prepared by the National Human Rights Commission (NHRC)] along with the responsibilities of the patients, the need and importance of adopting this long overdue Charter in India, and a few potential

mechanisms for the implementation of the same.

**INTRODUCTION**

The first draft of the 'Charter of Patients' Rights' was released by the Government of India through the Ministry of Health and Family Welfare (MoHFW) on August 30, 2018 and it was placed in the public domain for inviting comments and suggestions from the citizens till September 30, 2018. This Patients' Rights Charter has been prepared by the National Human Rights Commission (NHRC) so that it can be used as a reference document by the Government of India. This Charter encompasses all the basic rights which should be enjoyed by the patients and it draws its reference from various national and international documents and legislations and provisions; with the main objective of consolidating all of them into a single document.<sup>1</sup> The second main objective of this Charter is to make the citizens aware about their rights as patients and also about the responsibilities of the Government and healthcare service providers in this regard.<sup>2</sup> All in all, this Charter covers 17 basic rights that could be claimed by all the patients along with the responsibilities of the patients and caretakers, the grievance redressal mechanisms and its components and certain implementation mechanisms for the same. All these rights invariably have a tinge of Human Rights because NHRC considers Patients' Rights as Human Rights, and rightly so. The Nobel Peace Laureate, Elie Wiesel has observed that one cannot, one must not, approach public health today without looking

<sup>1</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online]

Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 22 May 2020].

<sup>2</sup> *ibid.*



into the human rights component.<sup>3</sup> According to Justice J S Verma, right to health is a basic human right with universal recognition and therefore it is the responsibility of the State to achieve the highest attainable standards of health for its citizens.<sup>4</sup> The health and human rights experts have a collective responsibility to conceptualize and carry forward these agenda. Although principles and provisions related to Human Rights do apply to patients, there is a need to codify the Rights of Patients as a specific category and so this Charter was seen as an important first step in that direction. The brief overview of the rights and responsibilities tabled in the Charter is given below.

### **RIGHTS OF PATIENTS AS Tabled IN THE CHARTER OF PATIENTS' RIGHTS**

The Patients' Rights Charter mentions 17 basic rights of patients to be protected by the Government. These rights have been collected and consolidated from various domestic law provisions as well as from various international documents. The rights can be broadly describes as under-

#### **1. Right to Information-**

All the patients and their representatives have a right to get relevant information about the illness- its cause and nature, the course of

treatment, the estimated costs for the same and most importantly the complications included in the procedure of treatment, if any.<sup>5</sup> The patients have the right to know the costs or expenses of their treatment i.e. the fees of the physician, before such treatment is rendered or before such operation is performed and not after the completion of the same and neither when the same is under way.<sup>6</sup> Along with this, the patients also have the right to information with regard to the medication involved in the treatment process- its name, dosage, side effects, etc.<sup>7</sup> The patient, his relatives or his responsible friends have a right to know about the exact gravity of the condition of the patient- neither exaggerated nor minimized, such as will serve the best interest of the patient and his family.<sup>8</sup> All the information should be in a language which is preferred by the patient and in a way that is easily comprehensible to the patient.<sup>9</sup>

#### **2. Right to Records and Reports-**

Every patient and his/her representative/caretaker have the right to access a copy of their case papers, patient records, investigation reports and detailed bill.<sup>10</sup> The patient also has a right to have access to these documents of records within 72 hours of the request made for such records.<sup>11</sup> This right is not only protected

<sup>3</sup> 'REGIONAL CONSULTATION On PUBLIC HEALTH & HUMAN RIGHTS' (2001) <<https://nhrc.nic.in/sites/default/files/publichealthText.pdf>> accessed 22 May 2020.

<sup>4</sup> *ibid.*

<sup>5</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>6</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 1.8.

<sup>7</sup> ([nabh.co](http://nabh.co), 2020)

<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 23 May 2020.

<sup>8</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 2.3.

<sup>9</sup> ([nabh.co](http://nabh.co), 2020)

<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 23 May 2020.

<sup>10</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>11</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 1.3.2.



under the Right To Information Act 2005 but also under the regulation of Indian Medical Council (which is based on world medical ethics) and also as a 'consumer' under the Consumer Protection Act 1986 (now 2019).<sup>12</sup>

### 3. Right to Emergency and Medical Care-

The State is under an obligation to preserve the life of each person<sup>13</sup> and so it was rightly held by the Supreme Court that it is the duty of every physician/doctor to provide services with due expertise for protecting a patient's life.<sup>14</sup> Correspondingly, it becomes the right of a patient to get emergency medical care. It is also important to note that the fees for such emergency medical care should not be demanded or asked in advance and the patient has the right to such emergency medical care irrespective of his/her paying capacity, because the status of a critically ill patient would be similar to that of a poor person.<sup>15</sup> The physician has a right to make a choice as to whom will he serve but in case of an emergency, he should not deny service and he should also not deny treatment to a patient arbitrarily.<sup>16</sup>

### 4. Right to Informed Consent-

Prior to tests or treatment procedures, informed consent of the patient must be necessarily taken.<sup>17</sup> The doctor should obtain the consent before performing the operation

on the patient, in writing, either from the patient himself/herself or from the husband or wife or from the parent or guardian of the patient if s/he is a minor.<sup>18</sup> The consent for clinical trials must be obtained in a specific format.<sup>19</sup>

### 5. Right to Confidentiality, Human Dignity and Privacy-

Every patient has the right to personal dignity, right to privacy during examination and treatment as well as the right to confidentiality about their medical condition.<sup>20</sup> It is the right of a female patient that a female practitioner be present at the time of examination of that female patient by a male practitioner. Duty to maintain confidentiality has its origin in the Hippocratic Oath. It is on the basis of the above that the International Code of Medical Ethics has laid down as under: "*A physician shall preserve absolute confidentiality on all he knows about his patient even after his patient has died.*"<sup>21</sup> The right to confidentiality can be breached and the information related to the medical condition of the patient can be revealed by the doctor/physician only under certain circumstances which are as follows- (a) In a Court of Law under order of the Presiding Judge; (b) in circumstances where there is a serious and identified risk to a specific person

<sup>12</sup> *Ms. Nisha Priya Bhatia v Institute of HB&AS, GNCTD* [2014] (Central Information Commission).

<sup>13</sup> Constitution of India, Article 21.

<sup>14</sup> *Pt. Parmanand Katara v Union of India & Ors* [1989] AIR 2039.

<sup>15</sup> *Pravat Kumar Mukherjee v Ruby General Hospital & Ors* [2005] (National Consumer Disputes Redressal Commission).

<sup>16</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 2.1 & 2.4.

<sup>17</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>18</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 7.16.

<sup>19</sup> The Drugs and Cosmetics Rules 2016, Appendix V.  
<sup>20</sup> (*nabh.co*, 2020)

<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 24 May 2020; Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>21</sup> *Mr. 'X' v Hospital 'Z'* [1998] (Supreme Court).



and / or community; and (c) notifiable diseases.<sup>22</sup>

### 6. Right to Second Opinion-

Every patient has the right to seek second opinion from a doctor/physician of the patient's choice and correspondingly the treating hospital has a duty to provide records and information.<sup>23</sup> The American Medical Association also reiterates the same. The hospital authorities must ensure that the quality of care is not adversely affected just because the patient chooses to seek a second opinion and any kind of discriminatory practice by them would result in the violation of Human Rights by them.<sup>24</sup>

### 7. Right to Transparency in Rates, and Care According To Prescribed Rates Wherever Relevant-

All the patients have a right to know the rates and fees of the services provided by the clinical establishment and the same shall be displayed by the clinical establishment at a conspicuous place in the local as well as in English language.<sup>25</sup> Such rates must be within the range determined and issued by the Central Government in consultation with the State Governments.<sup>26</sup> In all such cases, the physician must see to it that the interests of the patients are given utmost priority and that his/her own financial interests are not in

conflict with the medical interests of the patients.<sup>27</sup> In addition to this, it must also be seen that all the medicines, devices, implants and services listed under National List of Essential Medicines (NLEM) by the Government of India and the World Health Organization must be provided to patients at rates not higher than the prescribed rates or the Maximum Retail Price (MRP).<sup>28</sup>

### 8. Right to Non-Discrimination-

The right to non-discrimination is a very essential right which should be made available to the patients especially to patients suffering from HIV/AIDS. The patients suffering from HIV/AIDS have a right against discrimination on any ground-occupational, educational, healthcare services, etc. and there are penal provisions for the same.<sup>29</sup> Moreover, it is a right of each and every patient to receive care and treatment without any form of discrimination based on the nature of their disease, religion, gender, age, etc. and correspondingly it becomes the duty of the hospital authorities to orient and train their staff accordingly.<sup>30</sup>

### 9. Right to Safety and Quality Care According to Standards-

All patients have the right to safety and security in the hospital premises as well as the right to quality care which match the

<sup>22</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 7.14.

<sup>23</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>24</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online] Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 24 May 2020].

<sup>25</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8; Clinical Establishments (Central Government) Rules 2012, s 9(i).

<sup>26</sup> Clinical Establishments (Central Government) Rules 2012, s 9(ii).

<sup>27</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 1.8.

<sup>28</sup> Drugs (Prices and Control) Order 2013.

<sup>29</sup> Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017, s 3.

<sup>30</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.



standards set out by the Standard Treatment Guidelines (as may be determined by the Central Government from time to time in consultation with the State Governments).<sup>31</sup> The patients are entitled to get quality uniform care be it in any setting- outpatient units, wards, Intensive Care Units (ICUs), procedure rooms and operation theatres.<sup>32</sup> There should be no medical negligence or deficiency in service delivery system on the part of the hospital management. For this, the organization should take measures and actions to prevent or reduce the risk of Healthcare Associated Infection (HAI) among patients as well as employees.<sup>33</sup>

#### **10. Right to Choose Alternative Treatment Options if Available-**

The right to choose among available options is a basic right of every consumer<sup>34</sup>, which invariably includes patients. Thus, each and every patient has the right to choose an alternative treatment if that option is available to him/her.<sup>35</sup> Correspondingly, it is the duty of the hospital management and authorities to provide the patient with the available alternative treatment/management options, so that the patient can make an informed choice and decide what works best for him/her, and also to receive due acknowledgement from them for the same.

#### **11. Right to Choose Source for Obtaining Medicines and Tests-**

<sup>31</sup> Clinical Establishments (Central Government) Rules 2012, s 9(iii).

<sup>32</sup>(*nabh.co,2015*)

<[https://www.nabh.co/Announcement/Draft\\_Accreditation\\_Standards\\_for\\_Hospital\\_4thEdition.pdf](https://www.nabh.co/Announcement/Draft_Accreditation_Standards_for_Hospital_4thEdition.pdf)> accessed 24 May 2020.

<sup>33</sup> *ibid.*

<sup>34</sup> The Consumer Protection Act 2019.

<sup>35</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

By convention, doctors may advise the patient to buy medicines from a particular pharmacy or to go for conducting tests at particular laboratories. The patient, in such and all other cases, has the right to choose<sup>36</sup> the source for obtaining medicines and tests according to his own preference and so it becomes the duty of the doctor to inform the patient about the same. In no way should it adversely influence the quality of care provided to the patient.

#### **12. Right to Proper Referral and Transfer, which is free from Perverse Commercial Influences-**

There should be proper policy and procedure to guide the transfer- in of patients to the organization and to guide the transfer- out/referral of unstable patients to another facility in an appropriate manner.<sup>37</sup> Also, when any patient is referred to a specialist, a case summary of the patient should be given to the specialist.<sup>38</sup> It is also desirable that health centres have ambulance facilities for the transport of patients for timely and assured referral.<sup>39</sup> Such referral process should in no way be influenced by commercial considerations of any sort.

#### **13. Right to Protection for Patients Involved in Clinical Trials-**

Clinical trials and medical research involving human beings as subjects of the trial/research are necessary for the development and progress in the field of medical sciences.

<sup>36</sup> The Consumer Protection Act 2019.

<sup>37</sup>(*nabh.co,2015*)

<[https://www.nabh.co/Announcement/Draft\\_Accreditation\\_Standards\\_for\\_Hospital\\_4thEdition.pdf](https://www.nabh.co/Announcement/Draft_Accreditation_Standards_for_Hospital_4thEdition.pdf)> accessed 24 May 2020.

<sup>38</sup> Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations 2002, s 3.6.

<sup>39</sup> Indian Public Health Standards (IPHS) Guidelines for Primary Health Centres.



Every human being involved in such trials or research should have right to be protected. This kind of trial or research involving humans should be continued only if the benefit-risk profile remains favorable.<sup>40</sup> It is necessary that in all clinical trials, an informed consent be obtained in writing from each study subject, and such consent/refusal should not affect the quality of care provided to the patient.<sup>41</sup> It is the duty of the physician to protect the life, health, dignity, integrity, right to self-determination, privacy and confidentiality rights of the patient on whom the medical research is being conducted because medical research is subject to ethical standards that promote and ensure respect for all human subjects and protect their health and rights.<sup>42</sup> The patient should also be informed about the name of the drug/intervention that is undergoing trial along with the dates, dosage and duration of administration. In addition to this, the patients also have a right to free medical management of adverse events, financial or other assistance, compensation to dependents (in cases of death) and ancillary care in case of illness whether related to the trial or not and for this, institutional mechanisms may also be established.<sup>43</sup>

#### **14. Right to Protection of Participants Involved in Biomedical and Health Research-**

Any biomedical or health research which involves humans should be carried out with the prior approval of the Ethics Committee.<sup>44</sup> The research should be conducted with the informed consent of the subject and the rights to life, dignity, privacy and confidentiality of the individuals and community should be protected and additional safeguards should be taken involving vulnerable population. The medical research involving human subjects should only be conducted if the benefit of the outcome outweighs the risks to the subjects and those benefits should be made accessible to individuals, communities and populations wherever relevant.<sup>45</sup> Research participants are entitled to compensation in case of any direct harm- be it physical, psychological, social or legal or economic.<sup>46</sup>

#### **15. Right to Take Discharge of Patient, or Receive Body of Deceased from Hospital-**

Each patient has the right to take discharge and no patient can be detained on the grounds of non-payment or dispute in payment of hospital charges. Similarly, the caretakers of the patient have the right to take the

<sup>40</sup>'Handbook For Good Clinical Research Practice (GCP)'

<[https://www.who.int/medicines/areas/quality\\_safety/safety\\_efficacy/gcp1.pdf](https://www.who.int/medicines/areas/quality_safety/safety_efficacy/gcp1.pdf)> accessed 25 May 2020.

<sup>41</sup> Amended Drugs and Cosmetics Act 1940 and Rules 1945, Schedule Y.

<sup>42</sup> 'World Medical Association Declaration Of Helsinki Ethical Principles For Medical Research Involving Human Subjects' <<https://www.wma.net/wp-content/uploads/2016/11/DoH-Oct2013-JAMA.pdf>> accessed 25 May 2020.

<sup>43</sup> Protocols and Good Clinical Practice Guidelines issued by Central Drugs Standard Control

Organisation, Directorate General of Health Services, Govt. of India.

<sup>44</sup> National Ethical Guidelines for Biomedical and Health Research Involving Human Participants 2017.

<sup>45</sup> 'World Medical Association Declaration Of Helsinki Ethical Principles For Medical Research Involving Human Subjects' <<https://www.wma.net/wp-content/uploads/2016/11/DoH-Oct2013-JAMA.pdf>> accessed 25 May 2020.

<sup>46</sup> National Ethical Guidelines for Biomedical and Health Research Involving Human Participants 2017.



deceased's body and they cannot be denied on the grounds of procedural grounds. In cases of unlawful detainment, the criminal law provisions can be invoked.<sup>47</sup> A Division Bench of Justice Satyaranjan Dharmadhikari and Justice Bharti Dangre said, "*There have been instances wherein hospitals have detained patients over non-payment of bills. This act of the hospitals of detaining a person who is declared fit otherwise, is illegal.*"<sup>48</sup> Therefore, it becomes utmost important that the patients are aware of their rights so as to prevent them from such and other similar harassment. On these lines, the Bombay High Court had also directed the Maharashtra Government to see to it that the patients become aware of their rights so that such harassment is not meted out to the poor patients.<sup>49</sup>

#### 16. Right to Patient Education-

Every consumer has the right to consumer education<sup>50</sup>, and consequently every patient has the right to patient education. This right includes the right to receive education about the rights and responsibilities of the patients, cost estimates, third party services (e.g. - Insurance), redressal mechanisms, information related to disease and its condition, proposed line of treatment,

complications involved, alternative treatments, benefits, progress in the condition, any change of condition, etc.<sup>51</sup> Education related to all these and other aspects must be given (by the hospital management and treating physician) according to standard procedure in a language that the patients understand and in an easily comprehensible manner.<sup>52</sup>

#### 17. Right to be Heard and Seek Redressal-

As every consumer has the right to be heard and to seek redressal for their grievances<sup>53</sup>, patients (being consumers themselves) also have the right to do the same. The patients have a right to give feedbacks and file complaints in a user-friendly manner.<sup>54</sup> The patient has the right to file a complaint through the concerned authority and thereafter has a right to fair and prompt hearing of his/her grievance.<sup>55</sup> In addition to this, the patient also has the right to appeal and can also insist that the outcome be provided in writing.<sup>56</sup> There should be a robust tracking and tracing system to ascertain the status of complaint resolution of the patients.<sup>57</sup>

<sup>47</sup> Indian Penal Code 1860, s 340-342.

<sup>48</sup> 'Mumbai: Chembur Hospital Refuses To Discharge Body Over Dues' [2018] Free Press Journal <<https://www.freepressjournal.in/cmcm/mumbai-chembur-hospital-refuses-to-discharge-body-over-dues>> accessed 25 May 2020.

<sup>49</sup> *ibid.*

<sup>50</sup> The Consumer Protection Act 2019.

<sup>51</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), s 10.2 & 10.22.

<sup>52</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online] Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 26 May 2020].

<sup>53</sup> The Consumer Protection Act 2019.

<sup>54</sup> 'The Charter Of Patients Rights And Responsibilities' (*nhsinform.scot*, 2020) <<https://www.nhsinform.scot/care-support-and-rights/health-rights/patient-charter/the-charter-of-patient-rights-and-responsibilities>> accessed 26 May 2020.

<sup>55</sup> (*nabh.co*, 2020) <[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 26 May 2020.

<sup>56</sup> *ibid.*

<sup>57</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online] Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 26 May 2020].



### **RESPONSIBILITIES OF THE PATIENTS**

Like the patients have certain rights which need to be protected and promoted, they also have certain responsibilities which need to be fulfilled. Some of those responsibilities are as under-

1. The patient should not conceal relevant material information regarding his/her family/ medical history and should disclose the same with honesty and transparency.<sup>58</sup>
2. The patient is expected to cooperate with the doctor/s during the process of examination and diagnostic tests by following all instructions<sup>59</sup> and to comply with the doctor's treatment plan, which includes being punctual for appointments and having realistic expectations from the treatment plan.<sup>60</sup>
3. The patient is also expected to take responsibility for his/her own health and do everything in his/her capacity for the same.<sup>61</sup>
4. The patient should respect the dignity of the doctor as well as the hospital medical staff and should follow the rules and regulations laid down by that particular hospital.<sup>62</sup>
5. Whatever maybe the grievance, the patient should see to it that s/he never resorts to violence.<sup>63</sup>
6. It is also the responsibility of the patient to pay the hospital bills on time and to never ask for surreptitious bills and false certificates.<sup>64</sup>

7. To report fraud and wrong-doing,<sup>65</sup> is also one of the responsibilities of the patient and an important one indeed.

### **CERTAIN MECHANISMS FOR THE IMPLEMENTATION OF THE PATIENTS' RIGHTS CHARTER IN INDIA AND GRIEVANCE REDRESSAL MECHANISMS**

The Patients' Rights Charter prepared by the National Human Rights Commission (NHRC) not only mentions the rights and responsibilities of the patients but also recommends mechanisms on how to implement the same. These recommendations with respect to the implementation mechanisms are as under-

1. First and foremost, the NHRC recommends the Government of India, all State Governments and the Administration of all Union Territories to adopt this Charter and to incorporate it in the existing range of regulatory frameworks in the healthcare sector. Further, the NHRC recommends that all Human Rights violations cases concerning patients, this Charter should be used as a reference document by all the State Human Rights Commission (SHRC).<sup>66</sup>
2. Once the Patients Rights' Charter is officially adopted in India, the doctor/physician/hospital should display this Charter in English, Hindi and other local

<sup>58</sup> (nabh.co, 2020)

<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 26 May 2020.

<sup>59</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>60</sup> (nabh.co, 2020)

<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 26 May 2020.

<sup>61</sup> ibid.

<sup>62</sup> ibid.

<sup>63</sup> Clinical Establishment Act Standards for Hospital (LEVEL 1A &1B), Annexure 8.

<sup>64</sup> (nabh.co, 2020)

<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 26 May 2020.

<sup>65</sup> ibid.

<sup>66</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online] Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 22 May 2020].





languages, prominently and at multiple locations in the healthcare provider setting.<sup>67</sup>

3. For the grievance redressal mechanisms, NHRC recommends that every clinical establishment shall set up an Internal Grievance Redressal Mechanism, where the complaints can be filed by patients with the Internal Grievance Redressal Officer who shall assess the complaint and try to find a solution for the same keeping in view this Charter.<sup>68</sup>
4. If the patient's grievance is not resolved through the above mentioned redressal mechanism, then s/he can approach the district level regulatory authorities established for this purpose under the relevant legislations in various States, and the concerned authority can pass an executive order accordingly. An attempt to resolve the dispute through mediation should be made within 30 days from the date of receipt of appeal.<sup>69</sup>
5. In case if the grievance is still not addressed/resolved, the patient may go to the State Council of Clinical Establishments which has the power to hear appeals against the order of the District authorities. The State Council of Clinical Establishments can then set up a sub-committee with 3/5 members or a cell with multi-stakeholder participation (to be known as 'Healthcare Grievance Redressal Authority') which can pass appropriate binding orders within 30 days of the date of receipt of appeal.<sup>71</sup>
6. NHRC recommends that apart from the aforementioned remedies, the patient can

also approach the State Medical Council or the Consumer Forums to seek disciplinary action or financial compensation respectively.

7. The patient can also approach the Civil/Criminal Courts and thus the NHRC recommends that the creation of a separate grievance redressal mechanism for the violation of the Patients' Rights Charter should in no way affect the legal remedies (both civil and criminal) available under the existing legal framework.

### CONCLUSION

With the increasing frequency of news related to the violation of Human Rights of patients all over the country, flashing on our news channels and printed in our newspapers almost each day, it can be necessarily concluded that India needs to adopt the Patients' Rights Charter legally, to incorporate it into the existing legal framework and to use it as an enabling reference document for the grievance redressal of the patients. Moreover, the Charter should also be given a binding effect. The Charter should also include penal provisions in cases of non-compliance with the Charter. A States' obligation to support the right to health – including through the allocation of "maximum available resources" to progressively realize this goal - is reviewed through various International Human Rights mechanisms, such as the Universal Periodic Review, or the Committee on Economic, Social and Cultural Rights. In many cases,

<sup>67</sup> (nabh.co, 2020)  
<[https://www.nabh.co/Images/pdf/Patient\\_Charter-DMAI\\_NABH-new.pdf](https://www.nabh.co/Images/pdf/Patient_Charter-DMAI_NABH-new.pdf)> accessed 26 May 2020.

<sup>68</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online] Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 22 May 2020].

<sup>69</sup> *ibid.*

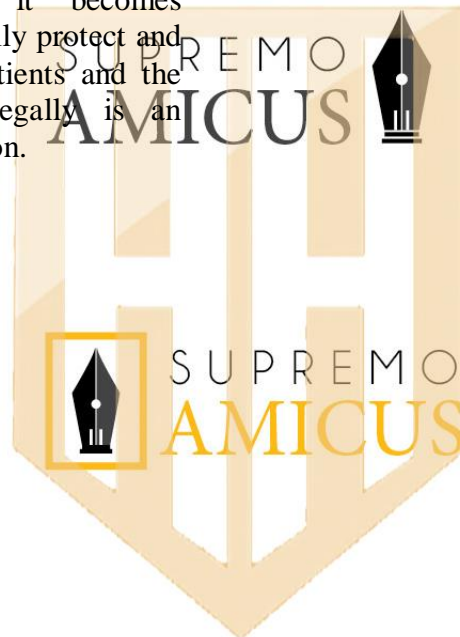
<sup>70</sup> The Clinical Establishments (Registration And Regulation) Act 2010, s 8(5)(d).

<sup>71</sup> nhrc.nic.in. 2020. *The Charter Of Patient Rights / National Human Rights Commission India*. [online] Available at: <<https://nhrc.nic.in/document/charter-patient-rights>> [Accessed 22 May 2020].



the right to health has been adopted into Domestic law or Constitutional law,<sup>72</sup> which all the more makes it the responsibility of the State to ensure protection and promotion the rights of the patients. With India being one of the nations where the Supreme Court has declared the Right to Health as a Constitutional Fundamental Right under Article 21 and has also acknowledged it to be the State's obligation/responsibility in many landmark cases [*Paschim Banga Khet Mazdoor Samity v. State of West Bengal (1996)*, *State of Punjab v. Mohinder Singh Chawla (1997)*, *State of Punjab v. Ram Lubhaya Bagga (1998)*], it becomes increasingly important to legally protect and promote the rights of the patients and the adoption of this Charter legally is an appropriate step in this direction.

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<sup>72</sup> 'Human Rights And Health' (*who.int*, 2017) <<https://www.who.int/news-room/fact->

[sheets/detail/human-rights-and-health](https://www.who.int/news-room/fact-sheets/detail/human-rights-and-health)> accessed 26 May 2020.