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Non-Therapeutic Hysterectomy in Intellectually and Physically Disabled Girls and Women- A Critical Analysis

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Abstract

The non-therapeutic hysterectomy is a significant ethical and legal dilemma in healthcare systems worldwide when it is performed in intellectually or physically disabled girls and women for reasons of menstrual hygiene management or caregiver convenience. This narrative review integrates literature to critically analyse clinical justifications, inherent ethical dilemmas and increasingly related legal issues surrounding this controversial matter, particularly in relation to institutional constraints in India. We explore the inconsistencies between accepted bioethical principles of autonomy, non-maleficence, and justice and the continuing rationalisations for the procedure. The recent Maharashtra government's position in favour of the practice is read as a pivotal example of institutional betrayal. In contrast, international legal trends indicate a definite, although unreconciled, movement towards protective care, including judicial review as well as multiprofessional control. The article argues non-therapeutic hysterectomy is an ethical and human rights violation. We call for a shift in the model towards supported decision-making, to an exhaustive search for non-surgical options, and to the establishment of strong legal protection for the body and reproductive autonomy of this at-risk population.

Keywords: Non-therapeutic hysterectomy, intellectual disability, physical disability, menstrual hygiene, bioethics, human rights.

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Introduction

The history of non-therapeutic hysterectomy and involuntary sterilisation of intellectually and physically disabled girls and women has been a one of a series of very sad intersections of medicine, law, and ethics. The origins of the practice lie in early 20th-century eugenic views about curtailing the reproduction of "undesirable" people. In the 1927 U.S. Supreme Court case Buck v. Bell, Justice Oliver Wendell Holmes bemoaned, "three generations of imbeciles are enough," giving his blessing to the compulsory sterilisation of women with intellectual disabilities who were institutionalised. This decision allowed for the subsequent sterilisation of tens of thousands of women in over 20 U.S. states within eugenic legislation, as Roberta Cepko explains.[1] Under these laws, more than 60,000 women were sterilised by the mid-1900s, many without their permission.

These activities were justified by arguments in the public interest for health, economic, and moral reasons, notably to prevent births to those considered incompetent to parent, and to reduce "burdens" on the state. Courts have frequently granted sterilisation applications on the grounds of sexual risk, purported promiscuity, or caregiver "convenience." As Cepko documents, legal and judicial thinking often elevated social regulation and administrative convenience over individual rights, bodily autonomy, and dignity.

In India, the first internationally visible red flag was raised in the year 1994, in a brief report published in The Lancet entitled "Mass hysterectomies in India," highlighting that women with intellectual disabilities, at least, were the subject of hysterectomy clustering (in state institutions and involving intellectually disabled women), which was justified by hygienic or caregiver convenience concerns. The *Lancet* report sparked widespread medical, ethical, and legal debate in India, highlighting the deep divide between institutional practices that claimed to uphold bodily autonomy and those that clearly violated it.[2] In connection with this incident, the Bombay High Court, in National Addiction Research Centre v. State of Maharashtra (1994), took suo motu cognisance of a horrendous case of 17 out of 49 mentally challenged women residing at residential schools who were subjected to hysterectomy surgeries without compelling medical justifications. The ruling set a precedent in India, highlighting the necessity for ethical oversight and human rights protections in the care of disabled women in institutional settings.[3]

Menstrual hygiene management for girls and women with profound intellectual or physical disabilities is challenging for caregivers, families, and healthcare providers.[4] Yet, the therapeutic removal of the uterus (hysterectomy) to address

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these challenges when no uterine disease is present raises serious ethical concerns against individual rights and bodily autonomy.[5] The procedure, often rationalised as being in the best interests of hygiene, sterilisation, and reduced caregiver burden, directly opposes the fundamental beliefs of medical ethics and the human rights of persons with disabilities.[6] There has been widespread international condemnation of this practice, yet it remains embedded in many institutions, particularly in developing nations like India [7,8]

Today, while the openly eugenic sterilisation programs have been discredited, worries linger in both first world and third-world settings about hidden or informal medical practices that amount to reproductive denial for women with disabilities. Gender, disability, and reproductive rights are still hotly contested and ethically charged issues. The discussion remains polarised between protection and autonomy, care and control, medicalisation of disability and human rights-based models. To develop policies and clinical practices that will have respect for bodily integrity, consent, and reproductive rights of intellectually and physically disabled women, it is critical to understand this history and its continuing impact.

Here, the authors review the clinical rationale, breaches of professional ethics, and international legal contexts related to non-therapeutic hysterectomy.

Ethical Dilemmas

Non-therapeutic hysterectomy is often justified on clinical grounds as menstrual flow management to control menstruation in individuals with limited self-care ability and as a part of behavioural treatment to neutralise the observed mood fluctuations related to the menstrual cycle.5,7 The caregivers of these physically and intellectually challenged girls accept this practice to alleviate the physical, emotional, and financial burden of caregiving. It has been seen that these practices are done as a form of birth control, based on assumptions about vulnerability to sexual abuse.6 While these concerns appear practical, they are unsupported by medical necessity and raise significant ethical issues.7

The principle of autonomy upholds the right to bodily integrity and self-determination for all persons.[5] Because it is a permanent procedure, a non-therapeutic hysterectomy eliminates the woman's ability to make future reproductive decisions and undermines her autonomy.[6] As a major surgery, hysterectomy carries risks such as infection, bleeding, premature ovarian failure, cardiovascular disease, osteoporosis, and psychological trauma.[7] Performing it for non-life-threatening reasons constitutes a serious ethical breach.[6] Conducting irreversible procedures solely based on disability violates the United Nations Convention on the Rights of Persons with Disabilities (CRPD), which guarantees autonomy, dignity, and freedom from degrading treatment.[9]

Discussion

The Indian Context: Protocols and Frameworks

There was a dire need for a legal framework for this type of operation involving ethical and legal aspects of the autonomy and dignity of the patient. Subsequently, the Indian Journal of Medical Ethics issued suitable guidelines for non-therapeutic hysterectomies in 1994.[4] The key principles in their guidelines mention that hygiene and caregiving support should be prioritised over surgical elimination of menstruation. Hysterectomy is unwarranted for contraception or caregiver convenience; sterilisation, if needed, should be via laparoscopic ligation. IJME suggests that a Hysterectomy can only be considered in a woman with irreversible brain damage that has left her with no understanding of her bodily functions and incapable of looking after her own needs despite meticulous efforts at training her to do so.

A rights-based position was upheld in Smt. Sangeeta Sandeep Punekar v. State of Maharashtra & Ors., where the Bombay High Court rejected the affidavit submitted by the Maharashtra Women and Child Development Department. The affidavit had sought to justify hysterectomy in women with an IQ below 50 on grounds of hygiene, infection risk, anaemia, and breathing difficulty. The Court found this reasoning inconsistent with the Rights of Persons with Disabilities Act, 2016, and the Mental Healthcare Act, 2017, which safeguard autonomy, dignity, and protection from degrading treatment. Rather, it states that resorting to irreversible surgery over supportive care reflects institutional and systemic failure.[10] It is also important to note that the state is not the guardian of individuals residing in institutions for the handicapped or needy; it is merely a custodian entrusted with their care.[2]

Earlier, in National Addictional Research Centre v. State of Maharashtra and Dr. Anant Phadke & Ors. v. State of Maharashtra, the Bombay High Court considered the ethical and legal implications of such surgeries in state institutions. In this case, the High Court observed that it appears that the infliction by consent or otherwise of this kind of surgery on mentally retarded women or girls cannot be sufficiently supported by any logic. It may amount to serious interference with the rights of such challenged women [3]

Comparative International Legal Contexts

In the United States, following the "Ashley X" case, several states require judicial review and ethics-committee oversight for the sterilisation or hysterectomy of disabled minors.[6,11] In the United Kingdom, the Mental Capacity Act (2005) mandates Court of Protection approval for such procedures, ensuring a best-interest evaluation that incorporates the individual's prior wishes and beliefs.[12] In a landmark 1986 judgment, the Supreme Court of Canada considered a petition filed by the mother of a woman with intellectual disability, referred to as "Eve," seeking authorisation for her daughter's sterilisation. The Court held that such an invasive and irreversible procedure, lacking any therapeutic necessity, could not be ethically or legally justified [13]

The continued practice of non-therapeutic hysterectomy demonstrates deep societal and institutional neglect—inflicting unnecessary harm, medicalising social issues, and disregarding supportive care. Evidence indicates that, with proper training

and resources, menstrual hygiene can be managed without surgical intervention. Global legal norms now uphold bodily integrity and reproductive rights irrespective of disability status.

Non-therapeutic hysterectomy performed on persons with disabilities or mental illness, without medical necessity, violates the Mental Healthcare Act, 2017,[14] and the fundamental rights to life, dignity, and bodily integrity under Article 21 of the Constitution of India.

Conclusion

A non-therapeutic hysterectomy for reasons of menstrual hygiene and the convenience of the caregivers of intellectually and/or physically disabled women is a gross violation of human rights and can never be justified from an ethical perspective. Suggestions of better hygiene or convenience for caregivers cannot justify perpetuating this discriminatory practice. What is needed is the replacement of the outmoded medical model by the social model, which upholds sexual, bodily and human rights, including the right to autonomy, access to respectful supported decision-making and the right to legal protection.

A preventable non-therapeutic hysterectomy must be addressed through a rights-based multidisciplinary strategy. These operations should be categorised as human rights abuses. Multi-disciplinary review panels, including ethicists, legal experts, disability advocates, and clinicians, should review each case , and that would help to ensure that every decision is ethically and medically sound. Providers must be educated in menstrual care and behavioural intervention to prevent unnecessary surgeries. There must be stronger public education about the rights of people with disabilities and ethical medical practice, and more severe punishments for violations to hold violators accountable, and to protect women's right to autonomy and dignity.

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Ethics approval

Not applicable.

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