

Medical civil liability of therapy researches of stem cells (with an emphasis on imam khomeini's legal opinions)

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Abstract

One of the new issues of medicine is applying stem cells. These cells opened new horizons in the treatment of chronic and incurable diseases. By the late 1980s in the legal system of most countries, there were no set of specific rules about responsibilities of physicians on therapeutic and non-therapeutic medical researches and these issues were mainly under the general laws or rules associated with medical liability. Nowadays, as a result of wide debates on the issue in various conferences, many countries attempt to pass laws on therapeutic researches and the remedy caused by them. Unfortunately, in Iran enough efforts to pass a comprehensive legislation in this regard has not been done and hence the civil liability of therapeutic researches is considered under the general rules of civil liability and specific rules of physicians' responsibilities, mentioned in the Penal Code. In the present paper, reviewing the reasons of maintaining the position and dignity of patients treated through stem cells, we intend to survey and evaluate the methods of remedies in this field, regarding the legal opinions of Imam Khomeini on the subject. In therapeutic researches there should not be any irreparable damages and, before doing research, necessary measures must be taken in order to offset possible losses. The insurance of case studies (participants) against potential damages caused by the researches is necessary, as well. With regard to the criticism of the principles of liability in remedies stemming from researches, it seems that people, hurt during the research process, deserve full compensation, but they do not get their rights in the current system. It is therefore worth covering losses on scientific researches, in accordance with the rules, by the state. In the case of medical researches carried out by private institutes and individual researchers, remedy must be paid by insurance. In such cases, institutions and researchers are required to insure the case studies against the damages caused by the research, and in case of violation they are themselves responsible for the total damages. Since in Iran research institutes and universities are mostly governmental, it seems useful if we apply these two systems for the remedy of therapeutic medical researches of stem cells, which does not break the Islamic legal rule of Laa Zarar (no harm).

Keywords: Laa Zarar (no harm) Rule, Patients' Rights, Remedy, Stem Cells

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