

THE PATIENTS BILL OF RIGHTS AND ITS LEGAL, ETHICAL AND SOCIO LEGAL CHALLENGES: ARE THERE FAILED PROMISES?

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Abstract

This study undertakes a critical examination of the Patients' Bill of Rights in Nigeria, with a focus on the legal, ethical, and socio-legal challenges that have hindered its effective implementation. Despite its lofty provisions, the Patients' Bill of Rights has failed to deliver on its promises, leaving patients vulnerable to abuse and neglect. The research identifies the Nigerian factor as a significant contributor to this failure, characterized by a complex interplay of socio-cultural, economic, and institutional factors. These factors have conspired to undermine the effectiveness of the Patients' Bill of Rights, rendering it ineffective in protecting the rights of patients in Nigeria. Through a comprehensive analysis of the legal, ethical, and socio-legal landscape of Nigeria's healthcare system, this study proposes recommendations to address the challenges facing the

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Patients' Bill of Rights. These recommendations are designed to ensure the protection of patients' rights in Nigeria, promote accountability and transparency in the healthcare system, and ultimately improve the quality of healthcare services in Nigeria.

Keywords: Patients' Bill of Rights, Nigeria, Legal Challenges, Ethical Challenges, Socio-Legal Challenges, Patient Rights, Healthcare

1.1 Introduction

The Patients' Bill of Rights being a document that outlines the rights and responsibilities of patients in the healthcare system is intended to promote patient autonomy, dignity, and well-being by establishing standards for healthcare providers to follow. Notwithstanding its noble intentions, this audacious Bill has been criticized for failing to deliver on its promises.¹

One of the primary concerns is that the Patients' Bill of Rights is often more of a symbolic gesture than a meaningful tool that promotes patient rights. Hence, many healthcare providers pay lip service to the document, but, grossly fail to implement its provisions in practice.²

It is pertinent to state that the Bill is often criticized for being overly broad and vague. Critics argue that its broad nature makes it difficult for patients to know what their rights are, and for the healthcare providers to know what is expected of them. In addition to these challenges, there are also significant legal, ethical, and socio-legal issues surrounding the Patients'

¹Patient Bill of Rights <<https://hefamaa.lagosstate.gov.ng/patient-bill-of-rights/>> accessed 12 January, 2025.

²Ibid.

Bill of Rights. For example, there are occasions where there is a conflict between the rights of patients and the interests of healthcare providers, or between the rights of individual patients and the needs of the broader healthcare system. These conflicts can be difficult to resolve, and may require careful consideration of competing values and interests.³

Therefore, this research aims to contribute to this effort by assessing the failed promises of the Patients' Bill of Rights, and examining the legal, ethical, and socio-legal challenges that are associated with its implementation.

2.1 Theoretical Framework

Theories that relates to this research will be examined in this part of this research.

2.1.1 Social Contract Theory

The Social Contract Theory is a philosophical framework that posits that individuals voluntarily give up some of their natural rights in order to live in a society with a functioning government. The theory was first proposed by Thomas Hobbes in his 1651 book titled "Leviathan," but was later developed and refined by John Locke in his 1689 work titled "Second Treatise of Government" and later by Jean-Jacques Rousseau in his 1762 work titled "Social Contract".⁴

According to the Social Contract Theory, individuals in a state of nature are free to do as they please, but this freedom is also fraught with danger and uncertainty. In order to escape this state of nature and live in a more secure

³Patient Bill of Rights
<<https://www.ajol.info/index.php/ojm/article/view/179284/16863>> accessed 12 January, 2025.

⁴Social Contract Theory <<https://iep.utm.edu/soc-cont/>> accessed 12 January, 2025.

and stable society, individuals agree to form a social contract with each other. This contract involves the mutual surrender of some natural rights in exchange for protection and security provided by the government.⁵

The Social Contract Theory postulates that the primary purpose of government is to protect the natural rights of its citizens. Specifically, Locke argued that the government's main responsibility is to protect the rights to life, liberty, and property. In return, citizens agree to obey the laws and rules established by the government. According to Locke, this mutual agreement forms the basis of the social contract.⁶

One of the main advantages of the Social Contract Theory is that it provides a moral justification for the existence of government. By arguing that government is based on the consent of the governed, the theory provides a framework for understanding the relationship between citizens and their government.⁷ Another advantage of the Social Contract Theory is that it emphasizes the importance of individual rights and freedoms. By positing that individuals have natural rights that are inherent and inalienable, the theory also provides a foundation for modern democracy and human rights.⁸

The Social Contract Theory has been influential in shaping modern political philosophy and continues to be relevant today. Particularly, this theory is relevant to this research because it highlights the importance of consent and individual rights in the relationship between patients and healthcare

⁵Ibid.

⁶Ibid.

⁷Ibid.

⁸Ibid.

providers. By examining the social contract between patients and healthcare providers, one can easily have a better understanding of the failures of the Patients' Bill of Rights and identify ways to strengthen patient rights and improve healthcare outcomes.

2.1.2 Foucauldian Theory

Foucauldian Theory was developed by a French philosopher; Michel Foucault. This theory is a critical framework to analyze power relations, knowledge production, and social control. Foucault's work challenges traditional notions of power, knowledge, and subjectivity, explaining how individuals and groups are shaped by and resist dominant discourses.⁹

At the heart of Foucauldian Theory is the concept of power, which Foucault understands as a diffuse and complex network of relationships that permeate all aspects of society. According to him, power is not held by individuals or groups, but rather is exercised through complex webs of relationships, institutions, and discourses. This perspective on power highlights the ways in which dominant groups maintain control over subordinate groups through subtle and insidious mechanisms.¹⁰

Foucault's concept of discourse is also central to his theory. Discourse refers to the ways in which language, symbols, and practices shape our understanding of the world and ourselves. In his opinion, discourses are not just reflections of reality, but rather they actively construct reality, shaping what is considered true, normal, and acceptable. Foucault equally argued

⁹Mateusz Brodowicz, 'Analyzing Michel Foucault's Theories on Power and Knowledge in Modern Society' <<https://aithor.com/essay-examples/analyzing-michel-foucaults-theories-on-power-and-knowledge-in-modern-society>> accessed 13 January, 2025.

¹⁰Ibid.

that discourses are always linked to power, as they serve to maintain or challenge dominant power relationships.¹¹

Institutional power is another key concept in Foucauldian Theory. Foucault examined how institutions, such as prisons, hospitals, and schools, exercise power over individuals and groups. He posited that these institutions are not just physical structures, but rather they are complex systems of power that shape the behavior, thoughts, and feelings of those within them. Foucault argued that institutions are sites of resistance and struggle, as individuals and groups negotiate and challenge dominant power relationships.¹²

Foucault's work also emphasizes the importance of knowledge production in shaping power relationships. He argued that knowledge is not an objective or neutral concept, but rather it is always linked to power and interests. According to Foucault, dominant groups use knowledge to maintain control over subordinate groups, while subordinate groups resist and challenge dominant knowledge claims. Foucault's concept of "power-knowledge" highlights the complex and intertwined nature of power and knowledge.¹³

The concept of subjectivity is also crucial in Foucauldian Theory. Foucault argued that individuals are not fixed or essential entities, but rather they are complex and dynamic subjects shaped by power relationships and discourses. In Foucault's opinion, subjectivity is not just a product of individual experiences or choices, but rather it is shaped by broader social, cultural, and historical contexts. Foucault's work emphasizes the

¹¹Ibid.

¹²Ibid.

¹³Ibid.

importance of understanding subjectivity as a site of struggle and resistance.¹⁴

Foucault's theory has also been influential in a wide range of fields, including sociology, anthropology, history, and cultural studies. His work has equally been used to analyze power relationships in various contexts, including medicine, education, and politics. Specifically, Foucault's theory is relevant to this research because it offers a critical framework to analyze the power relationships and discourses that shape the healthcare system. By examining how dominant discourses and power relationships construct patient subjectivity and shape healthcare practices, it would be easier to better understand the ways in which the Patients' Bill of Rights has failed to deliver on its promises.

2.1.3 Agency Theory

Agency Theory is a conceptual framework that examined the relationship between two parties, where one party (the agent) is authorized to act on behalf of the other party (the principal). This theory is commonly applied in various fields, including business, economics, and healthcare. In the context of healthcare, Agency Theory is used to analyze the relationship between patients (principals) and healthcare providers (agents).¹⁵

The core idea of Agency Theory is that the agent is expected to act in the best interests of the principal. However, the theory also recognizes that agents may have their own interests, which may conflict with those of the

¹⁴Carol Kopp, 'What Is Agency Theory' [2024]
<<https://www.investopedia.com/terms/a/agencytheory.asp>> accessed 13 January, 2025.

¹⁵Ibid.

principal. This conflict of interest can lead to agency problems, where the agent prioritizes their own interests over those of the principal.¹⁶

Agency Theory identified two types of agency problems: adverse selection and moral hazard. According to the proponent of this theory, adverse selection occurs when the agent has more information than the principal, thereby, allowing them to take advantage of the principal. Moral hazard, on the other hand, occurs when the agent takes risks that they would not normally take if they were acting in their own interests.¹⁷

In the context of healthcare, Agency Theory highlights the potential for agency problems between patients and healthcare providers. For example, healthcare providers may prioritize their own interests, such as maximizing profits or minimizing costs, over the best interests of their patients. This can lead to suboptimal healthcare outcomes and decreased patient satisfaction.¹⁸

Agency Theory suggests that agency problems can be mitigated through various mechanisms, such as monitoring, incentives, and contracts. In healthcare, these mechanisms can include measures such as performance-based payment systems, patient satisfaction surveys, and quality improvement initiatives.¹⁹

One of the key advantages of Agency Theory is that it provides a framework to analyse the complex relationships between patients and healthcare

¹⁶Ibid.

¹⁷Ibid.

¹⁸Ibid.

¹⁹Ibid.

providers. By recognizing the potential for agency problems, healthcare policymakers and practitioners can develop strategies to mitigate these problems and improve healthcare outcomes.²⁰

Agency Theory has also been applied in various healthcare contexts, including the analysis of physician-patient relationships, the design of payment systems, and the evaluation of healthcare quality. The theory has also been used to examine the impact of healthcare policies and regulations on agency relationships. The theory is also relevant to this research because it offers a useful framework to analyse the relationships between patients and healthcare providers. By examining the agency problems that may arise in these relationships, it would be easier to better understand the challenges of implementing patient-centered care and identify strategies to improve healthcare outcomes and patient satisfaction.

3.1 Research Methodology

This study will adopt the ‘Legal Doctrinal Research Methodology’. This research method involves a critical conceptual analysis of all the relevant materials and legislation that relates to the phenomenon under consideration. This method of research is subdivided into primary and secondary sources. The primary sources include relevant laws on the phenomenon under consideration. On the other hand, the secondary sources sought to be relied upon in this study include textbooks written by scholars, well-researched journals written by academics of repute, cases from the Superior Court of Records, brilliant articles, web-sourced information from reliable web pages, dictionaries and relevant newspaper publications.

²⁰Ibid.

4.1 Literature Review

Several articles, publications and books have been written on the phenomenon under investigation. For instance, Meataz K Aljeezan and others in their work titled 'Patients' Awareness of Their Rights and Responsibilities: A Cross-Sectional Study from Al-Ahsa'²¹ asserted that the patient rights are an essential part of healthcare practice. The authors observed that patients are one of the most vulnerable members of society. As a result, improving the rights of patients is considered a priority in medical services.

Against that foundational background, the authors critically examine the measure of the level of patients' awareness of their rights. A self-administered questionnaire was distributed among Al-Ahsa patients through an online survey. The questionnaire was composed of socio-demographic variables (i.e., age, gender, education, etc.), sources of patient information regarding patients, means of increasing awareness toward patients' rights, and a 15-item questionnaire to measure the awareness about patient rights and responsibilities.

Among the 295 patients, 59.7% were males and 39% were aged between 31 and 40 years old. The overall mean awareness score was 54.6 (SD 7.44). 53.2% of the patients were categorized as having moderate awareness levels, 44.1% were good and only 2.7% were categorized as having poor levels of awareness. The study revealed that there is a sufficient awareness of patient rights and responsibilities in the study area. It was also found that increasing age, frequent hospital visitation, and education given by healthcare providers can effectively improve awareness of patient rights

²¹Meataz Aljeezan et al., 'Patients' Awareness of Their Rights and Responsibilities: A Cross-Sectional Study from Al-Ahsa' [2022] 14(12) *Cureus*, 1 - 15.

and responsibilities. The study concludes on the note that a multicenter study is required to shed more light on the awareness of patients regarding their rights and responsibilities. However, this work failed to assess the failed promises of the Patients' Bill of Rights including the legal, ethical, and socio-legal challenges that are associated with its implementation.

Also, Oliver Lewis & Felicity Callard in their work titled 'The World Psychiatric Association's "Bill of Rights": A Curious Contribution to Human Rights'²² reflected on how the World Psychiatric Association (WPA) published a "Bill of Rights" in 2016. Specifically, the study holistically considered and analysed what is at stake in a global professional clinical organization developing such a document that purports to support its efforts to tackle the social injustices experienced by people with mental health issues globally.

In addition, the study critically examined the text of the Bill and suggests that, while the document promises serious engagement with human rights (as distinct from ethics), it fails to meet existing international human rights standards. In the author's opinion, they noted that for the WPA to be a present and engaged partner in the implementation of international human rights standards it should not merely encourage governments to act, but start with inward-facing tasks. According to the authors, these include establishing minimum human rights-based criteria for its own members and holding them to account, so as to nudge psychiatrists towards a human rights-based approach that would benefit people with mental health issues around the world. However, this work failed to assess the failed promises

²²Oliver Lewis & Felicity Callard, 'The World Psychiatric Association's "Bill of Rights": A Curious Contribution to Human Rights' [2017] 3(46) *International Journal of Mental Health*, 157-167.

of the Patients' Bill of Rights including the legal, ethical, and socio-legal challenges that are associated with its implementation.

In Toshi Diwan and Deepika Kanyal work²³, they opined that patient's privileges are a set of moral principles that direct how patients and medical staff interact with one another. According to the duo, each patient has a right to evidence of their legal obligations and the healthcare provider's duties. Hence, in their opinion, respecting patient rights is an essential aspect of healthcare practices.

Reflecting on that, the authors asserted that those who are ill are among society's most helpless members which make the medical profession consequently views improvements to patient rights as being of the highest significance. Contextualising that, it was stated that a patient's rights are the set of moral principles that guide their engagement with medical personnel. That is, every single patient has an authorized²³ right to knowledge about those rights as well as the duties of the healthcare practitioner.

Therefore, the work seeks to assess the awareness regarding the patient rights and responsibilities among the patients in the tertiary care hospital. The objective was to assess the patient's and family's knowledge about the patient's rights and to study how patients' rights and ethics impact hospital employees.

A questionnaire-based cross-sectional study was carried out among 349 patients visiting the tertiary care hospital so as to uncover a baseline level of awareness among patients and their families regarding patients' rights

²³Toshi Diwan & Deepika Kanyal, 'Evaluate the Awareness Regarding the Patient's Rights and Responsibilities among the Patient Visiting Hospitals' [2024] <<https://f1000research.com/articles/13-41>> accessed 14 January, 2025.

when visiting hospitals. Through comprehensive assessments and surveys, the study revealed that a considerable portion of patients may have limited knowledge about their rights in the healthcare setting. Also, it was revealed that healthcare providers will become more attuned to the importance of upholding patients' rights. This alignment with patients' rights and ethical principles is anticipated to positively influence the overall organizational culture within hospitals, fostering an environment of respect, empathy, and patient empowerment. However, this work failed to assess the failed promises of the Patients' Bill of Rights including the legal, ethical, and socio-legal challenges that are associated with its implementation.

Olaitan Olusegun et al in their work titled 'Advancing Rights of Patients in Nigeria: Analysing the Patients' Bill of Rights'²⁴, asserted that the rights of persons who seek medical attention have been enshrined in national and international legal instruments, notwithstanding their health status. Stating with resentment, the authors, however stated that these rights are not fully secured in Nigeria due to some factors affecting the health care system. Hence, through a doctrinal method of research, the article examined the concept of the rights of patients in Nigeria. In addition, the study discussed the nature of the health system in Nigeria and highlighted the rights stated in the Patients' Bill of Rights 2018 (Ng) (PBoR) as well as the corresponding duties of health care practitioners.

The article showed that the rights of patients in Nigeria highlighted in the PBoR, have been continuously hindered by their weak enforcement, inadequate funding, insufficient health care providers, inadequate

²⁴Olaitan Olusegun et al., 'Advancing the Rights of Patients in Nigeria: Analysing the Patients' Bill of Rights' [2023] <<https://pubmed.ncbi.nlm.nih.gov/37271962/>> accessed 14 January, 2025.

infrastructure, lack of awareness and illiteracy. It concluded that urgent steps need to be taken by the Nigerian government as well as other relevant stakeholders in addressing these issues. However, this work failed to assess the failed promises of the Patients' Bill of Rights including the legal, ethical, and socio-legal challenges that are associated with its implementation.

Mofolami Onirinwa in his work titled 'The Importance of Patients' Bill of Rights in Nigeria (PBoR)²⁵ observed that as a patient seeking healthcare services, it is such a patient's fundamental right to receive adequate medical care that meets his or her needs, expectations, and preferences. However, in Nigeria, many patients have experienced inadequate medical care due to the absence of a Patients' Bill of Rights.

According to the author, this has led to an increase in the number of complaints and cases of medical negligence, which has resulted in avoidable deaths and suffering of patients. Reflecting on that audacious enactment, the legal practitioner stated that the Patients' Bill of Rights is a set of guidelines that specifies the rights and responsibilities of patients when receiving medical care. Noting further, it was stated that this law was designed to protect patients' rights, promote their safety, and ensure that they receive high-quality medical care that meets their needs. It was also stated that the Bill of Rights also ensures that patients have access to information about their health status, diagnosis, treatment options, and the risks and benefits of any medical procedure.

²⁵Mofolami Onirinwa, 'The Importance of Patients' Bill of Rights in Nigeria(PBoR)'<<https://www.linkedin.com/pulse/importance-patients-bill-rights-nigeriapbor-mofolami-onirinwa>> accessed 14 January, 2025.

On the historical antecedent of the enactment in Nigeria, the author stated that in Nigeria, the Patients' Bill of Rights was launched in 2018 by the country's formal Vice President Professor Yemi Osinbajo and was championed by defunct CPC (now FCCPC) under the leadership of Mr Babatunde Irukera and other relevant stakeholders including the Federal Ministry of Health. It was stated that this enactment specifically stipulates that every patient has the right to receive healthcare services that meet their needs, are of high quality, and are delivered in a safe and dignified manner. The author stated that the Bill of Rights also gives patients the right to participate in decision-making about their healthcare, access their medical records, and complain about any perceived violation of their rights.

One of the most critical rights of patients under the Patients' Bill of Rights in Nigeria identified by the author is the right to quality healthcare. Reflecting on that, the author noted that this means that patients have the right to receive medical care that is safe, effective, and meets internationally recognized standards of care. It was also stated that patients also have the right to receive healthcare services that are culturally and linguistically appropriate and respectful of their values and beliefs.

Another essential right of patients under the Patients' Bill of Rights in Nigeria identified by the author is the right to access information about their health. That is, patients have the right to receive clear and understandable information about their health status, diagnosis, treatment options, and the risks and benefits of any medical procedure. They also have the right to access their medical records and request that any inaccuracies be corrected. The study concludes that the Patients' Bill of Rights (PBoR) is crucial in protecting the rights and safety of patients in Nigeria as it ensures that patients receive quality medical care that meets their needs, preferences,

and values. However, this work failed to assess the failed promises of the Patients' Bill of Rights including the legal, ethical, and socio-legal challenges that are associated with its implementation.

Oyetola and Atang asserted that every human being has the right to the highest attainable standard of physical and mental health and Countries have a legal obligation to develop and implement legislation and policies that guarantee universal access to quality health services and address the root causes of health disparities, including poverty, stigma and discrimination²⁶.

Reflecting on that, the legal luminary stated that in recognition of this, the Constitution²⁷, as well as other statutes such as the National Health Act²⁸, makes copious provisions relating to health rights and the right to seek redress in Court if health users' right are breached. However, most people are either unaware of such rights or are incapacitated with regard to taking steps to enforce such rights. Hence, the authors examined and appraised the right to health in Nigeria vis-à-vis the existing legal framework and to further explore options for enforcement of health rights.

In doing so, it was stated that health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity and the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion and political belief, economic or social condition. On the other

²⁶ O. M. Atoyebi & Victor Obong Atang, 'Right to Improved Health in Nigeria: A Critical Legal Appraisal' <omplex.com> accessed 17 February, 2025.

²⁷ The Constitution of the Federal Republic of Nigeria 1999, (as amended)

²⁸ The National Health Act, of 2014

hand, ‘patient rights’ was said to be a general statement adopted by most healthcare professionals, covering matters such as access to care, patient dignity, confidentiality, and consent to treatment.

In the authors’ opinion, to provide patients with high-quality healthcare, it is imperative that they understand their rights about their health, and that the government supports patient safety and patient-centered care. It was stated that good health is influenced by several factors, including an individual’s socioeconomic status and biological composition, genetics etc., which are not directly within the authority of States.

Importantly, the authors noted that the right to health being a freedom to enjoy a range of products, services, facilities, and environments are required for its implementation. Hence, because of this, the term “right to the highest attainable standard of physical and mental health” is a more appropriate description of it than “an unconditional right to be healthy.

Reflecting on the right to health in Nigeria, it was stated that as a signatory to numerous international treaties, affirms its commitment to recognizing and upholding the right to health. Among these treaties, the primary ones include the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁹, the Convention on the Elimination of all Forms of Discrimination (CERD)³⁰, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), and the Convention on the Rights of the Child (CRC)³¹. Additionally, it was stated Nigeria has ratified two health-related civil and political rights treaties, namely the International

²⁹ The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1976.

³⁰ The Convention on the Elimination of all Forms of Discrimination (CERD), 1979.

³¹ The Convention on the Rights of the Child (CRC), 1990.

Covenant on Civil and Political Rights (ICCPR)³² and the Convention against Torture³³ and Other Cruel, Inhuman or Degrading Treatment or Punishment.

It was stated that at the regional level, the Right to Health is further reinforced under the African Charter on Human and Peoples' Rights³⁴, while domestically, the guarantee of the Right to Health is enshrined within Chapter 2 and Chapter 4, particularly Section 33, of the Constitution³⁵, as well as in legislation such as the National Health Act, 2014, among others. It was also stated In Nigeria, the right to life as provided in section 33 of the Constitution³⁶, is interwoven with the health rights provided in the National Health Act³⁷, since the essence of health rights is to prevent death and preserve life.

The authors stated that it is however regrettable that the enforcement of the above constitutional provision which is contained in Chapter 2 of the Constitution³⁸ is elusive as the same is caught up with the doctrine of non-justiciability as enshrined in section 6(6)c of the constitution³⁹. However, the authors recognized some legal remedies available under the 1999 Constitution. In doing so, the authors noted that the Constitution of the Federal Republic of Nigeria empowers the court with powers to determine matters relating to civil rights and obligations of the person under the

³² The Convention on the Rights of the Child (CRC), 1990.

³³ The Convention against Torture, 1984.

³⁴ African Charter on Human and Peoples' Rights, 1981.

³⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended).

³⁶ *ibid*

³⁷ The National Health Act, 2014.

³⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended).

³⁹ *ibid*

constitution, which may include criminal matters. In line with the constitution, the National Health Act also provides for the right of the patient to lodge a complaint when any of those rights discussed above are infringed upon and it was stated that the right to seek redress could be done administratively by making a complaint to the healthcare establishment, or by filing a suit in the Court of competent jurisdiction, or by making a petition to the Medical and Dental Council of Nigeria, which is the body regulating the affairs of medical doctors and dental practitioners.

5.1 Legal Framework Analysis of the Patient Bill of Rights

As already stated, the Patients' Bill of Rights is a document that outlines the rights and responsibilities of patients in the healthcare system. The coming into existence of this Bill of Rights is as a result of the recognition of the importance of patient autonomy, dignity, and informed consent in healthcare decision-making.⁴⁰

Specifically, this Bill of Rights sets out specific provisions that are related to patient rights, including the right to informed consent, the right to confidentiality, and the right to access medical records. The Act also establishes the National Health Council, which is responsible for promoting and protecting patient rights in Nigeria.⁴¹

In addition to the National Health Act, other laws and regulations also contribute to the legal framework for patient rights in Nigeria. For example, the Nigerian 1999 Constitution (as amended) guarantees the right to life and

⁴⁰Ibid.

⁴¹Ibid.

dignity, which are fundamental to patient rights. The Constitution also provides for the protection of vulnerable groups, including patients.⁴²

The Patient Bill of Rights is also influenced by International Human Rights law, including the Universal Declaration of Human Rights of 1948 and the International Covenant on Economic, Social and Cultural Rights of 1966. These instruments recognise the right to health as a fundamental human right and emphasize the importance of patient autonomy and dignity in healthcare decision-making.

In Nigeria, the legal framework for patient rights is also shaped by common law principles, including the duty of care owed by healthcare providers to patients. This duty of care requires healthcare providers to exercise reasonable skill and care in the diagnosis, treatment, and management of patients.⁴³

The Nigerian courts have also played a significant role in shaping the legal framework for patient rights. In several landmark cases, the courts have recognized the importance of patient autonomy and dignity in healthcare decision-making and have held healthcare providers liable for breaches of patient rights.⁴⁴

Despite these developments, there are still significant challenges to the enforcement of patient rights in Nigeria. One major challenge is the lack of

⁴²See Generally Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

⁴³See for instance the case of *The State of Lagos v. Dr. Ejike Ferdinand Orji* [Unreported Decision In Suit LD/8963C/2019]

⁴⁴See *R v Akerele* (2001) 1FWLR. P.577.

awareness among patients and healthcare providers about patient rights and responsibilities. Another challenge is the limited access to justice for patients who have suffered violations of their rights.⁴⁵

Therefore, to address these challenges, there is a need for greater investment in patient education and awareness-raising initiatives. There is also a need for stronger regulatory mechanisms to ensure that healthcare providers comply with patient rights standards. Finally, there is a need for greater support for patients who have suffered violations of their rights, including access to counseling, mediation, and litigation.

Invariably, while there have been significant developments in recent years, including the enactment of the National Health Act, there are still significant challenges to the enforcement of patient rights. Addressing these challenges will require a sustained commitment to patient education, awareness-raising, and regulatory reform.

6.1 Ethical Analysis of the Patient Bill of Rights in Nigeria

The Patients' Bill of Rights in Nigeria is not only a legal document but also a moral and ethical framework that guides the relationship between healthcare providers and patients. From an ethical perspective, the Patients' Bill of Rights is based on the principles of autonomy, beneficence, non-maleficence, and justice.

These principles are fundamental to healthcare ethics and are intended to ensure that patients receive high-quality, patient-centered care that respects their dignity and autonomy. The principle of autonomy, for instance,

⁴⁵Emphasis Mine.

recognizes the patient's right to make informed decisions about their own healthcare. This principle is reflected in the Patient Bill of Rights, which guarantees patients the right to informed consent, the right to refuse treatment, and the right to participate in decision-making about their care. However, the implementation of this principle in Nigeria's healthcare system is often challenging due to various factors, including limited patient education, inadequate healthcare infrastructure, and cultural barriers.

The principle of beneficence, on the other hand, requires healthcare providers to act in the best interests of their patients. This principle is also reflected in the Patient Bill of Rights, which guarantees patients the right to receive high-quality care, the right to be treated with dignity and respect, and the right to have their pain and discomfort managed effectively. However, the implementation of this principle in Nigeria's healthcare system is often compromised by various factors, including inadequate healthcare resources, inadequate staffing, and inadequate training.⁴⁶

The principles of non-maleficence and justice are also relevant to the Patient Bill of Rights in Nigeria. The principle of non-maleficence requires healthcare providers to do no harm to their patients, while the principle of justice requires healthcare providers to distribute healthcare resources fairly and equitably. These principles are essential to ensuring that patients receive high-quality, patient-centered care that respects their dignity and autonomy. However, the implementation of these principles in Nigeria's healthcare system is often challenging due to various factors, including

⁴⁶Basil Varkey, 'Principles of Clinical Ethics and Their Application to Practice' [2020] 30(1) *Journal of Medical Principles Practice*, 18.

inadequate healthcare resources, inadequate staffing, and inadequate training.⁴⁷

7.1 Socio-Legal Analysis of the Patient Bill of Rights in Nigeria

The Patient Bill of Rights in Nigeria is a socio-legal document that reflects the complex interplay between social, cultural, and legal factors that shape the healthcare system in Nigeria. From a socio-legal perspective, the Patient Bill of Rights is not just a legal document, but also a social contract that reflects the values, norms, and expectations of Nigerian society.⁴⁸

This social contract is based on the principles of social justice, human dignity, and human rights, which are enshrined in the Nigerian Constitution and other international human rights instruments. The socio-legal analysis of the Patients' Bill of Rights in Nigeria reveals that the document is shaped by a complex array of social, cultural, and economic factors. For instance, the Patients' Bill of Rights reflects the cultural values of respect, dignity, and compassion that are deeply ingrained in Nigerian society.⁴⁹

At the same time, the document also reflects the social and economic realities of Nigeria's healthcare system, including the challenges of inadequate funding, inadequate infrastructure, and inadequate human resources. These challenges often compromise the ability of healthcare providers to deliver high-quality, patient-centered care that respects the dignity and autonomy of patients.⁵⁰

⁴⁷Ibid.

⁴⁸Ibid.

⁴⁹Ibid.

⁵⁰Ibid.

The socio-legal analysis of the Patients' Bill of Rights in Nigeria also highlights the importance of power dynamics in shaping the healthcare system. In Nigeria, power dynamics often favor healthcare providers over patients, with healthcare providers often wielding significant power and influence over patients. This power imbalance can compromise the ability of patients to assert their rights and interests, and can also compromise the quality of care that patients receive. The Patient Bill of Rights seeks to address this power imbalance by empowering patients with knowledge, skills, and resources to assert their rights and interests.⁵¹

Despite its importance, the socio-legal analysis of the Patients' Bill of Rights in Nigeria also reveals significant challenges and limitations. For instance, the document is often poorly understood by patients and healthcare providers, which can compromise its effectiveness. These challenges and limitations highlight the need for ongoing education, awareness-raising, and advocacy to promote the Patient Bill of Rights and ensure its effective implementation in Nigeria's healthcare system.⁵²

8.1 Conclusion & Recommendations

The Patients' Bill of Rights, enacted to safeguard the rights and dignity of patients in Nigeria, has unfortunately failed to live up to its promises. Despite the lofty nature of its provisions, the reality on the ground reflects a different story. Consequently, the following recommendations are proposed to address the legal, ethical, and socio-legal challenges hindering the effective implementation of the Patients' Bill of Rights:

⁵¹Ibid.

⁵²Ibid.

- i. The Nigerian government should establish an independent agency to monitor and enforce compliance with the Patients' Bill of Rights.
- ii. Healthcare providers should be mandated to undergo regular training on patient rights and responsibilities.
- iii. Patients should be educated on their rights and responsibilities through public awareness campaigns.
- iv. The National Health Insurance Scheme (NHIS) should be strengthened to ensure universal access to healthcare.
- v. The Nigerian Medical Association (NMA) and other healthcare professional associations should develop and enforce strict codes of ethics.
- vi. The government should increase funding for healthcare infrastructure and human resources.
- vii. A patient-centered approach to healthcare should be adopted, prioritizing patient autonomy, dignity, and well-being.