

## Feminising a Cultural Issue The case of informed consent

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THE SOUNDING BOARD ARTICLE BY AL BALUSHI, that was published in the February 2019 issue of *SQUMJ*, presents an important issue about informed consent (IC) and how it is handled in Omani society.<sup>1</sup> There is a need to address the issue of IC, especially for vulnerable groups of competent adult patients. However, the article feminises the issue of IC, which in Oman should be considered a cultural matter that transcends gender division. While females should have full rights to determine whether or not IC is given, focus should be shifted towards ways to avoid implementing a paternalistic approach when handling IC in Oman.

The term 'feminising' is defined as giving a feminine quality to something by presenting it as "characteristic of or appropriate or unique to women".<sup>2</sup> Al Balushi reiterated that Omani female patients face pressure from their families, particularly male members, when making high-stake decisions and echoed the need to empower females to overcome this dependency on males.<sup>1</sup> Any practicing clinician in Oman will observe that paternalism in IC is not unique to females, as males are also denied, albeit to a lesser extent, their right for IC. Feminising the nature of IC in Oman may not lead to the empowerment for females to make their own decisions, but rather may shift the focus and resources from understanding the real issues behind the practice.

### Legal Perspectives of Women in Oman

Omani law is based on the principles of Islamic Sharia as stated in Article 2 of the Basic Statute of the country promulgated by Royal Decree 101/96. In Sharia law, competent adult males and females both have equal legal capacity with all its associated duties and merits. Both penal and civil laws (7/2018 and 29/2013, respectively)

assert the individual's responsibility for their actions. In relation to medical practice, Article 44/B of the Penal Law 7/2018 asserts the need for an individual patient's consent in order to render a medical intervention legal, except in some law-exempted circumstances where consenting is inappropriate or not feasible. There is no indication in the law that females are treated differently or need a legal guardian to consent for them. Similarly, in the Ministry of Health's "Policy and Procedure on Informed Consent" there are no clauses in this policy that have any notion of discrimination based on gender or towards any specific group.<sup>3</sup>

Al Balushi presented examples of tubal ligations and hysterectomies as "cultural limitations in Oman [that] affect the validity of female consent".<sup>1</sup> This is neither unique to Oman nor to females. Spousal consent for voluntary sterilisation is required in countries such as Brazil, Chile, Japan, China and most countries with a Muslim majority.<sup>4</sup> These spousal consent regulations are not gender-specific as pregnancy and childbirth are shared interests of both the wife and husband. Hence, their mutual agreement on a procedure that will affect this shared interest is justified. An exception to this role is when sterilisation is needed on medical grounds as the sick spouse will be harmed by not undergoing sterilisation.<sup>5</sup>

### Social Science Perspectives of Women in Oman

Throughout history, women in Oman have enjoyed a high level of independence and pro-activeness as is demonstrated by historical female figures in various social, political, economic and religious areas.<sup>6</sup> Since there are no studies about female IC practices in particular, explanations for the apparently paternalistic approach to female IC in Oman may be extrapolated from other related studies.

Wikan noted in her anthropological study of women in Sohar, a city in northern Oman, that the husband-wife relationship within a family is mostly complementary.<sup>7</sup> This leads to acceptance of role variation in the community. In healthcare, this can be translated into the adoption of an individual's "sick role" wherein "the sick person [...] acquires a new social role that is intimately tied to his/her state of health"<sup>8</sup> Consequently, others around the sick person acquire new social roles as caregivers for the sick person. The sicker the person and the higher the stake of decisions, the more caregivers are likely to take over the responsibility for caring and decision-making.

Acquiring these new complementary social roles is part of a re-organisation process in the social order within the fabric of the society. Engelhardt found that "Patients often regress under the stress of disease and want to be treated as children by health professionals. Informal requests for paternalistic care occur as a matter of course in health care because patients are in a strange environment"<sup>9</sup> This finding is probably more applicable in collectivistic societies such as Oman. Hence, it may not be justified to consider this re-organisation of social roles as a matter of coercion, disempowerment or enforcement.

Another explanation for women delegating high-stake decisions to their male relatives is the issue of trust. Eickelman conducted an anthropological observational study of women in Al Hamra, a town in the interior of Oman. She noted that the relationship between wives and husbands consisted of "the wide-spread sense of trust that is an essential part of community life in inner Oman"<sup>10</sup> She also noticed a positive aspect of this sense of trust as it "gives women considerable freedom within the oasis—freedom to organise their workday and their visiting as they see fit"<sup>10</sup>

Cultural trust might help explain the widespread attitude of Omanis in avoiding making high-stake decisions and trying to delegate these to others. In neonatal do-not-resuscitate situations, parents did not want to make such high-stake decisions themselves but were "happy to accept transferring the responsibility onto a person in authority"<sup>11</sup> In addition, family members' advice has been found to be a catalyst in care-seeking behaviour among Omanis.<sup>12</sup> In fact, sick individuals not only delegate high-stake decision-making to their relatives but also to healthcare professionals as they frequently ask their healthcare practitioners to make decisions for them.

While the presence of inequality or male domination in society is a separate debatable issue, there are some social restrictions for females in expressing full legal authority. However, these restrictions need to be understood and contextualised within social roles and the

division of these roles between males and females. Hence, feminising the issue of IC in Oman is neither the best explanation nor approach to improve the *status quo*.

## The Way Forward

The issue of IC needs to be addressed in Oman both legally and socially. Legislation is clear with regard to the need for patients' consent for any medical intervention, regardless of gender. However, this legislation might be unclear to the public and healthcare professionals, indicating a need for better legal education.

IC should be understood as a tool in healthcare practice. It should be reconsidered and restructured within a culturally-informed context by considering aspects of trust and autonomy. Building trust is central to IC, healthcare practice and doctor-patient relationships. However, linking trust to IC is frequently neglected in discussions of IC.<sup>13</sup> IC can be improved by intelligent accountability and building trust and not by analysing specific details.<sup>14</sup> Instead of viewing autonomy within an individualistic doctrine, it can be re-addressed from a collectivistic perspective. Autonomy is a cultural concept "that grounds either the self or the way in which people think selves should be connected—or disconnected"<sup>15</sup>

IC by proxy is not a feminist issue in Oman. It is a socio-cultural issue affecting both males and females. Although it needs to be addressed, it is unlikely to be solved by law and regulation alone. The process of IC needs to be readdressed within a culturally informed framework that endorses cultural concerns and yet maintains the ethico-legal rights of sick individuals.

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