VOX POPULI

Why are our medical services poor?'

The steps proposed to improve the sad state of medicare in Maharashtra do not go into the heart of the matter. The large number of vacancies of medical officers persists because the existing policy of sending our graduate students to the rural health centres under an executed bond has never been implemented. The medical colleges have not been asked to implement it rigorously. There are numerous escape clauses which exempt a candidate from the bond.

Further, the posting and promotion policy for medical officers is not transparent. Medical officers without political clout languish in backward tribal areas while those with friends in high places continue for decades in urban areas and take up private practice while their seniors look the other way.

There is a flourishing transfer industry in which senior officers are overlooked and their juniors posted as district heads as District Health Officers leading to loss of morale. Most states having a sound health care system have a well laid down transfer and posting policy based strictly on seniority and qualifications acquired, leaving little room for manoevring.

The per capita expenditure on health has been going down in Maharashtra over the years. The state which has a population of over 8.5 crores, has only 50,000 hospital in the government and private sectors together and many of the government facilities are not approachable - located as they are in inconvenient areas. There are not enough roads not public/private transport_ On the other hand Kerala has 30,000 hospital beds in the government sector alone, for its less than three-crore population.

Secondly; the state of Maharashtra, which has been spending crores of rupees on industrialisation, does not even spend 2 per cent of its budget on health, while poor states like Kerala spend 17 per cent. As a result, despite the heavy rain and the backwaters of Kerala, there is no malaria epidemic in the state.

The Consumer Protection Act[2]

Doctors have argued that only those selling goods were included under this Act. In their judgement on a case involving the Lucknow Development Authority, the Supreme Court defined service as including 'not only day to day buying and selling...but even such activities which are otherwise not commercial in nature yet they partake of a character in which some benefit is conferred on the consumer...' Using this wide interpretation, the Court finds no reason to exclude doctors.

The Court recognises that professions operate in spheres where success cannot be guaranteed because of factors beyond the control of the professional. The Act therefore merely requires that the doctor should possess a certain minimum degree of competence and exercise reasonable skill and care.

Doctors also claim that since the medical councils oversee medical practice, there is no need for the Consumer Court to concern itself with doctors. The Supreme Court has rejected this argument as this 'is no solace to the person who has suffered due to their negligence and the right of such person to seek redress is not affected'.

On non-technical judges deciding medical matters, the Supreme Court points out that lay adjudicators act as 'an antidote against excessive technicality'. The composition of the tribunal 'combines with legal competence the merits of lay decision making by members having knowledge and experience in dealing with problems relating to various fields...(for safeguarding) the protection and interests of the consumers'.

Mr. Sorabjee argues for great care in making appointments to the District Forums and State Commissions to ensure credibility and generate public confidence.

Mr. Sorabjee concludes his essay, which should be required reading for all doctors, thus: 'Viewed in its proper perspective the judgement need cause no worries to a competent and honest professional...It must be remembered that professionals are for the people, the consumers of their services'.

The Consumer Protection Act (continued) [3]

The Supreme Court has, in a landmark judgement, pronounced that doctors and hospitals charging fees are covered under the Consumer Protection Act. This does not mean that patients will have a smooth sailing in all cases of medical negligence.

Experience shows that after a medical mishap, the doctors/hospitals refuse to give copies of case papers to the patient or his relative. In the absence of medical papers it is not possible to ascertain from other doctors whether there was any negligence on the part of the doctor/hospital concerned. Strangely, it is they who tell the patients that case papers would be given only if ordered by the court, thus forcing patients and their relatives to go to consumer courts.

I know of a case where for the last two years Mr. Panicker is frantically trying to get copies of the medical papers relevant to the death of his relative Vcnu Vijayan on 11 October 1993 at Jaslok Hospital despite the intervention of two leading consumer bodies (CERC from Ahmedabad and Mumbai Grahak Panchayat in Bombay). This kind of stonewalling only helps strengthen suspicions of negligence. Doctors and hospitals must remember that patient has a right to a copy of his case papers.

It may even be in the doctor's interest to give such copies out as a routine. In many cases the patient or relatives may not even think of filing a case after they have obtained the opinions of other experts on what's on the papers.

Even after getting the case papers, the agony of the patient or relative is not over. Consumer courts insist on their obtaining the opinion of an expert to support their complaint. Though many doctors admit that there was negligence by the person who treated the patient, the fraternal feeling amongst doctors disallows them from providing a written opinion to that effect.

The Consumer Protection Act (continued) [4]

Your editorial 'A far-reaching verdict' (November 16) has done justice to the cause of a long-suffering section of the consumers who have been at the mercy of exploitative medical practitioners.

There is no case for adding medical experts to the consumer courts which are headed by retired judges and include two other members of known probity, right from the district level to the apex. These courts have been found capable of dealing with intricate cases and have proved their worth. In rare cases of baffling technical issues arising for decision these courts themselves can invite or consult experts. But in no case should the opinion of experts be treated as final. The decision must be that of the consumer courts.

One is prompted to say this because the Medical Council of India, which has been in existence all along, has failed to do justice to aggrieved patients and has been supporting the fellow members of the profession.

The medical profession will do well to fall in line with the needs of the time,

thereby showing their ability to play fair with patients.

The Consumer Protection Act (continued) [5]

The problem in the medical profession, as in others, is one of want of ethics. Wilful neglect, negligence and lack of knowledge are some of the accusations made against the doctors. No doctor worth his salt wilfully neglects his patient, though perhaps at times he may be a bit negligent in his duties. But what is appalling today is the woeful ignorance of the basics of clinical practice. Many doctors try to camouflage their ignorance by either referring even simple cases to specialists or by submitting their patients to needless and costly pathological investigations. In some cases these may be necessary but there is a feeling among the general public that there is a nexus between the doctors and the various agencies.

The judgement of the Supreme Court should not be viewed as an irritant but as a challenge. India is proud of its doctors and their achievements. It is for the profession to prove that it is worthy of the nation's trust.

The Consumer Protection Act (continued) [6]

The Supreme Court's verdict bringing the medical profession under the purview of the Consumer Protection Act has come at the right time. Not long ago, the medical profession used to be considered a noble one with doctors being oath-bound to serve humanity with utmost devotion and without hankering for material comfort. In the recent past many doctors in the private sector have started behaving like businessmen.

Nursing homes are mushrooming everywhere and they are graded not on the basis of the services they provide but on the kind of incomes they earn. In the new hierarchy of values, private hospitals and nursing homes that charge the most are to be the best both by doctors and patients.

This decline in standards is, perhaps, the inevitable fallout of capitation fee colleges. If parents pay lakhs to see their sons and daughters acquire medical degrees, they expect returns commensurate with their investment. Naturally, the temptation to make a quick buck overpowers professional values.

No wonder we keep hearing of doctors amputating the wrong limb, removing the wrong breast, operating on the wrong eye or leaving behind instruments or swabs in the body. A recent survey showed that normal deliveries are exceptions in nursing homes; the Caesarian section is the rule. It's strange that the job dais used to do with great ease in much of India cannot be performed with the same efficiency by doctors armed with impressive-sounding degrees. Doctors are now threatening to hike their already high professional fees to finance indemnity covers in the wake of the Supreme Court judgement. Instead, they should sit together and chalk out ways to ensure that they treat their patients in a manner which will not attract the provisions of the Consumer Protection Act. It is an opportunity to clean up their act. Hiking professional fees will not help. They must regain their credibility.

The Consumer Protection Act (continued) [7]

The ongoing democratisation of all institutions, be they of the clergy or of apothecaries, is at work. Nothing is sacrosanct, not even those who deal with the most precious commodity - life itself.

This trend is inevitable since the hospitals have now acquired an air of corporate offices and doctors have become businessmen. The lure of lucre makes doctors forget that unlike any other business, doctoring is based on the moral precept of saving lives. It is not surprising that they are now open to public lynching, albeit in the court of law.

Hitherto doctors have never been accountable for the patient's death or ill-health. No other profession has had the privilege of holding the knife both literally and figuratively over their clients while continuing to earn accolades.

All that trust was based on the fact that a doctor's career entails untold personal sacrifices. As Shakespeare put it: 'Upon such sacrifices the gods themselves throw incense.' But today's doctor has stepped into the corporate world, shedding the missionary concept of healing the sick.

(It will not be easy-going for the complainant as) the bonding among doctors is so iron-clad that . . . I have a sneaking suspicion of a corollary to the Hippocratic oath that says: 'Thou shalt not sneak on they brethren'.

The Consumer Protection Act - a legal view [8]

The discussion was heated with lawyers charging that doctors were unnecessarily exaggerating their fears over the medical profession being brought under the ambit of the Consumer Protection Act.

The venue was the Indian Law Institute. Mr. Arun Jaitley, lawyer, said doctors have reacted to the judgement in an immature manner which seemed to have an undertone of revenge, that they would charge more, will give defensive treatment, etc. 'Rise above your commercial and trade union interests and view the Supreme Court judgement as a step to improve quality of medical service'.

According to him, 'What has really affected the doctors is that this verdict will change illusive remedy into real remedy and put a stop to professional thinking that there is no imminent danger of having to compensate the consumer'.

According to him, the judgement would replace casualness in medical treatment with carefulness. As for unnecessary harassment, he assured that the Consumer Protection Forum had screening of petitions whereby false petitions would be thrown out the first day. A similar fear with the introduction of Public Interest Litigation had proved to be unfounded.

He pointed out that a study of negligence cases registered between 1975 and 1985 showed that 416 cases were filed in all the High Courts in the country and the apex court. Of these, 360 related to the Motor Accident Tribunal and only three cases of medical negligence were reported.

'All that the Supreme Court has done is to speed up the procedure for medical cases, giving quicker and cheaper remedy to the patients so that they can get compensation at the right time'.

Who is a 'doctor'? [9]

The fate of the prefix 'Dr.' for medical and other professionals is now in the hands of the Delhi High Court which is hearing a petition filed by R. IS. Sharma, an occupational therapist working at the Safdarjung Hospital. The Director-General, Health Services has asked Sharma to stop using the prefix.

Sharma bases his claim to 'Dr.' on the grounds that it is used traditionally by occupational therapists all over the country and because the certificate issued by the All India Institute of Medical Sciences refers to him as 'Dr.' Mcera Bhatia, counsel for the government, claims that only medical doctors should be allowed to use the prefix as they make decisions on the management of sick patients and are responsible for their well-being whilst occupational therapists are merely supporting staff.

The voluntary organisation, Common Cause, headed by H. D. Shourie, support the government. The use of the prefix 'Dr.' by occupational therapists could mislead with adverse results. 'If a common man goes to an occupational therapist who has prefixed his name with

Dr. there are chances he may get wrong medical advice'.

Rioting doctors [10]

Police in New Delhi have registered cases of rioting and assault against three doctors in Ram Manohar Lohia Hospital following a complaint lodged against them by officials from the Central Bureau of Investigation (CBI).

Police said that three doctors - Dr. Manoj, Dr. Govardhan and Dr. Sohanlal attempted to free Dr. Sunilkumar Jain of the Department of Urology caught red-handed by the CBI while accepting a bribe of Rs. 3200 from a patient. The complainant, P. C. Sharma, a Deputy Superintendent of Police, SBI, alleged that the doctors forcibly attempted to free Dr. Jain and assaulted the CBI sleuths while they were taking him away.

All is not lost!"

Did anyone say that modern-day Indians are devoid of a national spirit? This diarist had a pleasant surprise on learning about the self-imposed professional guidelines of two young gentleman.

The first is a doctor who will not accept fees from teachers and defense services personnel. In his words: 'These are the two professions which need to be treated with reverence in post-independent India.'...

Both these professionals share a common trait - they do not wish their names to appear in print.

Vitamin C [12]

Researching a piece on the rot in Calcutta hospitals some years ago, I was handed an intriguing prescription. 'All you need to survive the mess', said a Bengali health specialist dramatically, 'is a strong dose of Vitamin C - Vital Ministerial Connections'.

Who checks for laboratory errors? [13]

Tests are necessary, we hear from our doctors and we have grown to have much faith in this maxim. Our urge to live prods us to submit to probes into our body: its fluid transport system, the composition of circulated of discarded fluids, wastes... The list of tests for ensuring health or diagnosing disease is long. Resting on this foundation of tests is the system, with a complex sub-system of out-of-bounds procedures that thrives on people's ignorance, helplessness and gullibility.

One must peep into the facilities available at laboratories doing these tests. A sample laboratory investigated by us in Madras was housed in a cubby-hole measuring 63 square feet, meant to be a shop. A plywood partition separated the lab table from two steel chairs for clients. The technician used the one stool behind the partition. A centrifuge, a small microscope, a set of school pipettes rested on a table hewn out of cheap wood, topped with a warped formica sheet. There was a water bath but no running water. The water to sterilise the syringes and needled came from a public toilet nearby. Bottles of reagents lined on a sloping rack threatened to come down any moment. The technician's sense of hygiene was unnerving. Some of the tests printed on the form required sophisticated equipment which did not exist in the lab.

In another popular lab, used disposable syringes floated in an enamelled basin. There was no answer to the question on why they had not been destroyed. A pathologist, spoke some plain truths. 'The (hopelessly inadequate) system thrives because most doctors earn huge commissions for directing patients to specific labs. Since the kickback can be as high as 50% and a lab may have very high overheads, it must extract more than the pound of flesh from the clients. There are doctors who get Rs. 800 for every computerised tomographic scan done on patients sent by them. As a consequence the poor patient has to pay Rs. 2000 for a plain CT scan. Lab owners are bullied by unscrupulous doctors who threaten to stop patronising a lab unless commission is paid. As things stand, the labs are only too happy to oblige as there are ways to rake in money without spending a pile!'

Dr. Karthikeyan, who runs a blood service centre, summed up the situation by saying: 'The great maxims of pathology will be violated as long as there is no system to check the quality of services rendered. There is no system to prevent clinical laboratories from mushrooming. Why talk of the quality of service and the consistency of results?'

To kill or allow to die? [14]

A recent report in the London daily, The Guardian, highlights the dilemma faced by those caring for infants and children with severe damage to the brain and no prospect of a meaningful life. Should they be 'put down' (as we would, with a kind intention, a dog or horse in a similar situation) or should they be allowed to die - a process that could be prolonged.

BBC conducted a survey after showing a program that attempted to persuade the viewer to care for severely handicapped children, 80% of the respondents agreed that severely brain-damaged children should be helped to die. 'Public opinion is more pragmatic about killing children than the law allows'.

The emotional force driving parents in this and other cases is distress at the pain their child is suffering. When brain damage is severe it is not clear what pain the person can actually perceive.

But, asks the correspondent, what about the slippery slope? Once courts, doctors and parents start making judgements about a child's quality of life, how and where is the line to be drawn?

Patients' rights flouted during clinical trial [15]

A secret vaccine trial using Bovine Immunodeficiency Virus, conducted in March 1994 on nine young men and a woman - all educated, middle class professionals infected by HIV - was abandoned midway.

The safety and efficacy of this vaccine has not yet been proven. No application was made to the Drug Controller of India for conducting this trial. The State Government too had no knowledge of it.

One of the participating patients complained: 'We have been treated worse than guinea pigs. Everyone has gained something from us but we are where we were. We took part in the trials in complete innocence and on trust. All that we ask is that the vaccine be scientifically tested. If it is effective we would like the treatment to be continued.' Eight patients had showed some improvement in their CD4 counts for some months after they were given the vaccine. When one of the patients worsened, the others tried unsuccessfully to obtain help from the researchers. 'Where were they when one of our colleagues was dying and we pleaded for a booster shot for him? There are at least two more among us who urgently need help'.

Bhairab Bhattacharya, veterinarian settled in USA and the inventor of the vaccine, and Mr. Pierre Emanuel de Gaspe, the financier named Dr. I. S. Gilada of the Indian Health Organisation as the person conducting the trial. Of the Rs. 1,00,000 said to have been paid to Dr. Gilada by Mr. de Gaspe, little was passed on to the patients. Dr. Gilada disclaims all responsibility and called the patients liars. In a subsequent report in The Times of India (Bombay edition 8 September 1995, Page 5), Ms. Chinai refers to evidence connecting Dr. Gilada with this trial.

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FROM OTHER JOURNALS

Women's rights related to local culture'

16,291 women, representing 189 countries registered for the Fourth World Conference on Women in Beijing. Many advocated using the term 'human rights' instead of women's rights but details emerging from discussions showed that these depend on local cultures, religions and ethnic preferences. These preclude a general agreement even in areas such as sexual rights and reproductive rights.

All countries expressing formal reservations were dominantly Catholic or Muslim. Religious conviction led them to question extra-marital sex, contraception and abortion.

It is perhaps time to rccognise that neither reasoned argument not belief in universal values necessarily precede consistent choices amongst the world's people.

Disadvantage of multi-centre clinical research [2]

The advantages of such research are often balanced with extra difficulties in negotiating access to the research subjects. Researchers, their secretaries, nurses and others may make such access difficult, time consuming or even impossible.

It is necessary to build into the project cost-effective measures permitting frequent personal contacts with each centre, time to negotiate access to subjects and ensuring that delays in reaching them are kept at a minimum.

The rights of the aged [3]

Attention is now being focussed on the rights of the heterogenous group forming the frail, aged population, each of whom constitutes the 'individual in a communal setting'. In addition to her right to information, there must be consultation and participation undiminished by her frailty. In discussing this theme, Diane Gibson touches upon important concepts such as what distinguished a right from a duty or the implications of constructing values in terms of rights.

She also discusses mechanisms for ensuring that such rights are catered to even when the personal care assistant has been annoyed by the justified complaints of an individual. In a touching incident she highlights the plight of these defenseless persons. "As I entered a room where a (frail, aged) resident lay moaning loudly, a staff member followed immediately on my heels. The resident looked up at us as we entered and cried, 'No, no. Please don't hit me."'

She also pleads for discussion on the management of certain categories. Take for example an 82 year old person who has dementia but shows an intense dislike of restraint. If left alone, she tends to fall and has already hurt herself twice. She has a clear desire for freedom of movement but needs protection so that she doesn't break her bones. Who is to decide upon the extent to which her mobility should be facilitated without hurt and what are the means for doing so?

Two ethical debates [4,5]

Fetal genetic testing for an incurable disease such as cardiomyopathy and the treatment of those attempting suicide are discussed in the section entitled 'Ethical debate'. After reading the case story of the family with cardiomyopathy, we are provided three opinions on whether such tests are helpful, the ethical issues involved and the steps towards adaptation to the diagnosis that are made possible by knowledge of the diagnosis and consequent risks. Finally we read the patient's domment.

As regards patients who have attempted suicide, the discussion focusscs on the person's right to refuse treatment, which patients should be allowed to die and whether suicide is different from a terminally ill individual's decision not to prolong life. 'I'hc reasons commonly offered for treating those attempting suicide are the assumption that they suffer from mental depression, arc pleading for help when attempting suicide and may, eventually be grateful that their lives were saved. Among the issues discussed is what makes a choice rational and the importance of religious and cultural beliefs.

1994's *most* ***bizarre suicide*** [6]

This fascinating incident must bc read in the original.

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