

Cross practice at the cross-roads

The Supreme Court and cross practice

Market place medical practice, the sacred mantra of the medical profession in India, has caused a baffling situation once again. The Supreme Court has asserted that practising medicine in violation of the law constitutes negligence per se. Cross practice 'where a homeopath or an ayurved uses allopathic drug and vice versa' is now illegal.

The case which originated from Bombay, involved a homeopathic doctor who treated a patient with allopathic medicine, and when the patient deteriorated, transferred him to a nursing home, which in turn, as is their usual practice, transferred him to a major hospital where he died. The consumer courts consulted medical experts and came to the conclusion that there was no negligence involved in the treatment. However, a Supreme Court bench consisting of two judges ruled that the cross practice per se violated the Indian Medical Council Act and not only attracted imprisonment, fine or both, but also constituted medical negligence. They awarded a compensation of Rs.300,000 and costs of Rs.30,000¹.

Distribution of doctors in rural India

There are almost a million doctors in India. Sixty percent are qualified and registered non-allopathic doctors. There are an additional quarter- to half-a-million 'doctors' not having any recognised qualification. While a section of the overmedicated rich and middle classes is turning to non-allopathic systems for the treatment of certain specific ailments, our rural masses are in a grip of an unprecedented wave of allopathic medicines and injections. According to 1981 Census, sixty-one percent of non-allopathic doctors practised in rural areas in comparison to only twenty-one percent of allopathic doctors. These figures do not include the unqualified practitioners, a big majority of whom also practice in rural areas. However, one thing common to doctors of all systems is that around ninety percent of them are in private practice² and they share great responsibility for both creating and catering to the craze for allopathic medicines and injections.

Further, with the rise of the non-allopathic pharmaceutical industry and its marketing of drugs in the same manner as is done by the allopathic drug firms, allopathic doctors are now increasingly using homeopathic and ayurvedic drugs. Cross practice has

ceased to be an aberration and is almost the norm - created, cultivated and propagated by our profession with impunity. Given the market demand for allopathic therapy, the Supreme Court judgement will predominantly penalise non-allopathic doctors, but no stratum of the profession can claim innocence.

Arguments for and against cross practice

The Supreme Court has taken a legal position. The law of the land restricts the practice of medicine to that branch in which the practitioner has been trained. This is being violated. It doesn't matter that it has been violated for so long. Since somebody asked the Court for remedy, it was their duty to uphold the law. It has not ordered the non-allopathic doctors to stop practising medicine. It merely asks them to practice what they are qualified to do. Another argument against cross practice is the code of ethics which clearly demands that the practitioner not claim or practice what he is not qualified for. There are dangers posed to patients by cross practice. Yet another argument against cross practice is that it allows non-allopathic doctors to use a back-door entry to allopathic medical practice.

Situations are created by the unscrupulous who train thousands of doctors in a non-recognised discipline and then on humanitarian grounds, demand that their products be absorbed in the non-allopathic stream of doctors, knowing full well that they will end up doing allopathic medical practice.³ There is a strong sentiment in the public mind against such crass and hazardous commerce in medical education. The Indian Medical Association, dominated by allopathic doctors, has not considered this judgement important enough to mount a campaign like that started by them against the consumer courts. One can imagine the secret glee of the allopaths who stand to be the sole beneficiaries of injection mania.

The panicky non-allopathic doctors have on the other hand suddenly discovered that they are playing a socially useful role. Following the judgement, we were approached by their associations and many individual doctors to get hard data on the total number of doctors and their rural-urban distribution. There was jubilation when they discovered that their fraternity has a better record than the allopathic doctors in locating their practices in the villages. While the consumer movement has generally welcomed the Supreme Court verdict, some doctors have come out in opposition. They are

justifiably worried that if the non-allopathic doctors are denied the right to practice allopathy, the millions of underserved Indians in our villages, who are not looked after by the allopaths, will suffer. Some community health activists, the pioneers of de-mystified and de-professionalised primary health care, have also shown muted opposition to the judgement as it would restrict the right of community health workers in the Non-Governmental Organisation health projects to use allopathic medicine and would, thus, adversely affect their work.

Status quo or change?

Clearly, both sets of arguments have a grain of truth. But more importantly, both sets, in the final analysis adhere to the neo-liberal market approach. The legal position restricts medical practice by trained and registered doctors strictly to their disciplines knowing full well that were they to do so, the access to health care by the under-served villagers would be severely restricted by virtue of the fact that disciplines other than allopathy have no means for treating a person bit by a rabid dog or stung by a scorpion or so injured as to run the risk of developing tetanus (to give but three common examples). Non-allopathic doctors are only interested in maintaining status quo, the better rural-urban distribution of their doctors forming a convenient cover for respectability. They are neither bothered about the financial barrier to access created by the market nor the quality of care provided by them.

The solution?

It is clear that the profession is in a big mess. It is time firm steps were taken to rationalise medical education and the care of the sick, especially those in our villages. The minimum that needs to be done is to standardise the

basic qualification of all doctors so that back-door entry, cross practice and a multiplicity of medical councils are given a decent burial. Basic, primary medical education that equips a doctor to be a competent general practitioner should incorporate the best of all branches of medicine — ayurved, homeopathy, unani and allopathy. This integrated form of training should be uniformly imparted throughout the country through a single class of medical colleges. All other medical colleges must be shut down. For the needy sick of this country there is nothing to be gained by defending the market interest of one set of doctors against others. Their interests will be served only when there is free and easy, universal 'access to good quality basic medical care.

Such change is not easy to achieve but unless this is done, the logic of the market-place and market-determined tort law will continue to hurt the profession. The Supreme Court verdict may turn out to be a blessing in disguise. Any adverse effect of the judgement on the access of the populace to health care must be countered. But such a fight should not have as its goal a continuation of the present anarchy of practising medicine whatever way one pleases.

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References

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