

Health legislation and its impact

There is an abundance of laws to regulate the medical profession, the pharmaceutical industry, and otherwise protect people's welfare. **S G Kabra** comments on their implementation

There is a large number of laws related to health care delivery systems in India. But if non-implementation of legal provisions is lawlessness, the health sector is the most lawless of them all.

The basic law to regulate and maintain the professional standards of the medical profession was the Indian Medical Council Act. However, in the zeal to encourage 'Indian systems of medicines' and 'traditional systems of medicines', these essentially complementary systems have been projected and established as alternative systems of medicine. In the name of 'integrated medicine', a totally chaotic, unregulated and unregulatable system has come to exist.

Worse still, in the name of providing 'barefoot doctors' for the suffering 'rural poor', anybody, irrespective of their basic qualifications or capability, can be provided with a legal license, after the so-called 'basic training', to practice as a Registered Medical Practitioner (RMP). An RMP, legally, can do anything that a regularly trained physician is permitted to do. And, a trained doctor can do anything that he chooses. There is no question of any norms, standards or ethics.

Contradictions in the laws and their implementation

Placing jaggery inside a woman's uterine cavity to stop severe bleeding after she has given birth is a criminal act for a doctor registered under Medical Council Act. The same act would be termed 'life saving' for a registered practitioner of traditional

medicine. To instill anything unsterile in an eye after a cataract operation would be gross criminal negligence on the part of a modern ophthalmologist, but using cow's urine after a couching operation for cataract would be a fully justified procedure under the Indian system of medicine. An acupuncturist is permitted to attempt to cure a cleft palate case by assuring the parents that electric stimulation from a needle 'strategically' placed in the body will stimulate growth of tissue across the cleft, though such a promise by others would attract penal provisions.

In the case of malignancies that are today identified as treatable or eminently controllable, not giving approved drug therapy would render a modern oncologist (cancer specialist) liable to legal action, but a practitioner of any other system of medicine claiming himself to be a 'cancer specialist' could give anything or deny anything to 'cure' patients, without any consequence of law.

Institutionalised quackery

If acting beyond one's training, competence and skill is quackery, in India today we have virtually institutionalised quackery, where, irrespective of which system of medicine one is trained in, including self-training in the name of traditional medicine, one may do what appeals to whim and fancy.

It is no surprise that the Medical Council of India and other medical councils are ineffective and dead as far as their function of regulating the standards of different systems of medicine is concerned.

The Drugs and Cosmetics Act, with all its provisions to regulate the manufacture, distribution and safe use

of the myriad products of one of the largest industries in the country - the pharmaceutical industry - is followed only for its money-spinning licensing provisions. Even this is in a distorted form. The state drug controllers, the implementing agencies of the Act, operate only as licensers. Under the loan licensing provisions, the State Drugs Controller can license anybody to prepare and market a medicine. As a result, one can see 'tonics', 'herbal medicines' and other such substances being prepared in *kadhai* in the streets of Jaipur and Indore.

Spurious drugs

According to a report of the drug control authorities, 20 per cent of such medicines were found to be spurious. It is anybody's guess what the actual extent of spurious drugs in the market is. Concoctions under the label of traditional and home remedies are now being marketed by organised national and international pharmaceutical companies. For herbal, ayurvedic, *siddha* and other such preparations, there is no method of quality control.

There is no evolved method of post-market surveillance, not even for newly licensed drugs. A licensed abortifacient paste, the 'Fetex paste', killed hundreds of women, without the Drugs Controller being aware of it, let alone having to account for it, as the licensing authority.

Yet another Act is the Drugs and Magic Remedies (Objectionable) Advertisement Act. This Act makes advertising of sex tonics and sex stimulants, uterine tonics and menstrual disorder regulators a cognisable offence. It also prohibits advertisements about the diagnosis, cure, mitigation or prevention of 54 diseases and disorders listed in the Act such as cancer,

diabetes, epilepsy, leucoderma, paralysis, sexual impotence. However, billboards in Delhi, the local train compartments in Mumbai, advertisements in newspapers and glossy and not so glossy magazines, and now the electronic media, openly mock the law-making and law-enforcing agencies.

Reproductive 'rights'

Another Act that has permitted mass butchery in the killing fields of medicare is the Medical Termination of Pregnancy Act. Intended to provide women the reproductive right of safe abortion (upto 12 weeks of pregnancy), the time span within which a legal pregnancy could be performed was increased to 20 weeks to accommodate population planners, though it was specifically stated that the Act was not meant for population control. The elaborate safety provisions of the Act and the Rules and the Regulations framed under it are overlooked with impunity.

As a result, induced abortions are one of the main killers of pregnant women in the country. Thousands of women become its victims every year. This has been going on for over the last 20 years. And of course it not only legalises 5 million foeticides every year but also makes it a laudable effort in nation building. The whole cultural ethos of the family and value for human life is shaken. Sects that used to abhor even killing an ant today think nothing when a foetus is dumped in the bucket to die.

Pesticides for household use

The Insecticides Act is intended to provide access to safe pesticides. Yet thousands of persons die every year, 20 per cent of them children, due to just one pesticide - aluminium phosphide, a product which is not to be sold in the market or be available as a household pesticide. Deaths by this pesticide have been reported in the medical literature, by forensic experts and in the lay press in the country. However, no authority

has felt the need to act under the Act.

The Dangerous Machines (Regulation) Act is intended to prevent maiming of farm workers by agricultural machinery. Though thousands of labourers get their limbs chopped and mutilated by thrashers and chaff cutters and hundreds of women get descalped, the provisions of this central Act have not been implemented almost a decade since its passing by Parliament.

Amongst the silent killers are radiation-induced cancers, congenital defects and body damage caused by X-ray radiation. The thousands of improperly used X-ray units in the country, functioning without the mandatory safety provisions prescribed under the Atomic Energy Act, are collectively and continuously doing what the atomic bomb once did. But since the ill effects of X-ray radiation manifest after 10-15 years, or manifest in the progeny, they cannot be traced to the X-ray radiation that caused it. An X-ray exposure in woman's childhood may lead to cancer of the breast when she is a mother. Radiation of a man's gonads may cause acute childhood blood cancer in his son or daughter.

The Atomic Energy Act is a central Act but is to be implemented by the state governments. They just have not done it.

The rule of law

The rule of law apparently does not include welfare law. Bypassing a law is not breaking a law. Indifference of statutes is not statutory indifference. Welfare of people is good for public posturing; otherwise, to fare well is the bureau-politician's overwhelming instinct.

There are several other laws that aid and abet activities in the killing fields, by default or design. Non-implementation of laws is no contempt of the parliament or the judiciary, and litigation leave little scope for the law enforcing authorities to effectively monitor and implement welfare laws.

Complementary medicine

ORTHODOX medicine has limitations.

*Expert and documented excuses,
Strain credulity when symptoms persist.*

*Distressed and disappointed,
Patients search for an alternative form of relief,*

*Facilitating the development of
complementary medical practice.*

*Those using plants, minerals, water,
magic and prayers*

*Concentrate on the whole patient and
Help him develop a fighting spirit.*

*Restoring the patient's confidence and
dignity,*

*And enabling acceptance of diagnosis,
limitations of therapy,*

*They often help him recover peace and
equanimity.*

Popular with the masses,

*They spark off debates amongst the
intelligentsia*

*On their standardisation, recognition,
and regulation.*

*Whilst patients are pleased with what
they get,*

*Opponents clamour for therapeutic trials
And 'scientific' evidence of validity.*

*Their efficacy is questioned by 'modern'
medicine men,*

*Deficiencies in methodology highlighted
And increasing numbers of procedures*

laid down

For evaluation and acceptance.

*The need to document untoward effects is
emphasised,*

*Even as paucity of 'literature' is
bemoaned.*

*Since ayurveda, unani and homeopathy
Historic and full of tradition,*

*With empiric palliation in untold
numbers*

And cures where possible,

*Should we not greet their practitionersd
With humility? And toil with them for the
greater good?*

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