

An Indian Perspective of ‘Medical Terrorism’ – Neologism of An old Predicament

Gayatri Bora^{1*}, Nisarga C P², Niveditha N Shetty³

^{1*} Associate Professor, Department of Physiology, Adichunchanagiri Institute of Medical Sciences, B G Nagar, Mandya, Karnataka, 571448, India.

² Undergraduate MBBS student (3rd Term), Adichunchanagiri Institute of Medical Sciences, B G Nagar, Mandya, Karnataka, 571448, India.

³ Undergraduate MBBS student (3rd Term), Adichunchanagiri Institute of Medical Sciences, B G Nagar, Mandya, Karnataka, 571448, India.

Disclaimer: There are good and dedicated doctors out there. This article is not about them. The contents and views expressed in this article is about the greedy "black sheep" and in no ways reflect anyone professional in particular.

I. Introduction

We have heard about Biological Terrorism before. Now, there is a new form of Terrorism – ‘Medical Terrorism’. Why coin the term “medical terrorism”? To justify it let us clarify two important terms- ‘medical error’ and ‘medical negligence’. Medical error may occur due to wrong judgment. For a patient, the doctor is like God - infallible. In reality, doctors are only human beings. And, to err is human. Doctors may commit mistake. It is medical error and there is no way but accepting it. Not all medical injuries are the result of negligence. In fact, a vast majority are due to inherent risks that cannot be prevented. Preventable errors that cause injury, on the other hand, are considered negligent. It is actually difficult to define negligence, however, the concept has been accepted in jurisprudence. The authoritative text on this subject in India, is the ‘Law of Torts’ by Ratanlal and Dhirajlal. Actionable negligence has been discussed as ‘the breach of a duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do.’ Thus, the three essential components of negligence are: ‘duty’, ‘breach’ and ‘resulting damage’.(1)

The term ‘terrorism’ needs no explanation. It is the state of being terrorized or creating a terror situation. Medical terrorism may be defined as creating a situation of terror using the medical knowledge as weapon. Medical negligence is under the umbrella term of medical terrorism. (1) **When a medical professional or a service provider does any inhuman behaviour, creating an environment of terror using medical knowledge or license, then it is not only negligence, it is Medical Terrorism.**(1)

Helpless people, in need of care are subjected to further trouble by people who should be taking care of them. The pain, the anguish, the condemnation, the distress and humiliation that the patients are going through in our time is incomprehensible. Instead of embracing and identifying with them, their anguish is aggravated through neglect, lack of concern and sheer abandon until, the money is deposited in the facility account, to commence any form of treatment.(2)

From an article published on October 12, 2015, I quote, “Well, I hear the whispers in low tones - If you can't afford it, SORRY, it's the POLICY of the facility, you MUST pay the amount before anything can be done.”(2)
Did you hear that? HOSPITAL POLICY.

Why would anyone turn away a sick patient on the grounds of not having money, yet it is a case of **Emergency**? Why there is no serious execution of law in India that at-least mandates emergency cases to be taken care of regardless of money being available or not? (2)

Anyone who let's a patient die and claims to be a doctor in the name of policy is no longer practising medicine as a vocation, they are practising the New Form of Terrorism – 'Medical Terrorism'. Terrorizing already desperate and sick people.(2)

Why India is severely hit by medical terrorism? Before we postulate our hypothesis - 'Welcome to the cut-throat and unethical world of hospitals and health care industry!!

The capitation fees for MBBS admission in private Medical colleges is around INR one crore, excluding college fees. The ROI (return on investment) is either from dowry or from exploiting the patients. Hospitals need huge investments for its buildings, infrastructure and medical equipments. Thus they expect huge ROI and the source of income is the patient. Now, situation has gone from bad to worse with corporatization of health sector and hospitals. For instance, Intensive care ventilator is a big business – steady income on daily rental, thus earning huge revenue.(3)

A famous hospital gives free treatment for poor people. It also arranges for free cremation, in the 'unfortunate event' of death. What a great service to the society! It is a publicity stunt. The hospital pays commission to get such patients. It also donates the patients relatives 'solace money'. Unbelievably, the catch is a part of the huge organ-lifting rackets!(3)

Medicine is supposed to be a calling, but it has been transformed to "a tool of trade". We are confronted by a scenario of sadistic individuals masquerading as doctors but defying the power thereof.(2) It has become known that many doctors are visiting foreign lands along with their families, in trips, sponsored by the pharmaceutical companies. Cases of nexus between doctors and clinical laboratories have also come to the fore these days and referring to 'surgical terrorism', there are surgeons who calculate their charges on the basis of the screws and stitches they append and this mandate, of high fees or rates from the patients is nothing but Medical Terrorism.(4)

Ayurvedic 'vaidhyas' were a integral strong part of our Indian tradition – a tradition that we followed for more than 3000 years! They had divine blessings – one may call it sixth sense or Extrasensory perception (ESP). If one thinks today, doctors from these alternative medicinal systems (Ayurved/holistic) are better, then it's a fool's paradise. The commercial and large scale production and cultivation using pesticides and fertilizers can kill ayurveda. 'Chavanaprash' was a very effective general ayurvedic tonic. Its major constituent is the Indian gooseberry, the cultivation of which should increase 100 times to match the current volume of 'Chavanaprash' produced. So some producers need to use something else – adding artificial gooseberry essence! Above this how can these get longer life without adding preservatives? And how does the preservatives act on the delicate combination of herbal medicines? Talk to any urologist – they will tell how many patients with kidney failure approach them after taking ayurvedic preparations. This is about exploitation in the name of holistic healing solutions! It is yet another huge industry!(3)

A nationwide movement 'Stop Medical Terrorism' was initiated on May 14th 2016 by a group of victims of medical negligence and supporters of the cause under the platform of Dr Anamika Ray Memorial Trust, Guwahati, demanding a separate legislation in the country to control unparadonable callousness of the medical professionals and malpractices at hospitals.(1,5) To create awareness the Trust has decided to observe 'Anti-Medical Terrorism Day' on July 19 to commemorate the untimely demise of Dr. Anamika Ray, a renowned media educator of the country, who had her life's lights snuffed out too early due to utter medical negligence at a hospital in New Delhi. This day will be observed in many parts of the country and even in Dhaka and Colombo.(5)

The Trust has prepared a list of demands to the state and union governments for improving the present healthcare condition of the country in both private and public sectors. This include CCTV surveillance in the hospital premises, ICU monitoring facility, availability of the indoor case file or ticket, recording of surgery, prompt action towards negligence issues, prevention of laboratory nexus, prescription of generic medicine, incorporation of a course on medical ethics and communication between doctor-patients in the medical programme, development of skills of paramedical staff, development of record-keeping methods on the cases pertaining to medical error and negligence, etc.(5)

It is a distant and difficult goal but the movement is determined to succeed so that victims of Medical Terrorism can find justice, the doctors who wish to and are trying to make a difference through their actions can do so with greater ease, and that there is greater and justified trust in the relationship between medical professionals and patients.(5) More such organisation is the need of the hour to fight and get justice by both the doctors and patients.

The Statistics reveal

Around 52 lakh medical injuries are recorded in India each year, of which around 98,000 result in fatalities. It is a matter of serious concern for the entire nation that ten people fall victim to medical negligence every minute and more than 11 people die per hour in the country due to medical error and negligence. This is not acceptable at any cost! It is the eighth leading cause of death in the world. Approximately 30 lakh years of healthy life are lost in the country each year due to medical negligence. (6) The situation is such that 98 per cent of the cases of medical negligence are even not reported! (4)

Medicine bridges the gap between science and society. Doctors are one important agent through which that scientific understanding is expressed. Patients are desperately in need of access to 'Quality Healthcare which is affordable and within their reach, as per stated by WHO. (2) No one can deny the services and contributions of doctors dealing with health issues to the society. Sure, there are a few rotten fishes that do charge excessive fees, prescribe unnecessary and costlier medicines, order unnecessary investigations, have unholy nexus with diagnostic setup and pharmaceutical companies, misleads patient for own benefit, take advantage of helplessness of patient or family, misbehave to patient and relatives, refuses to admit mistake, neglect in the duty of care and do inhuman acts of stealing organs, keeping dead persons on ventilation for days, illegal abortions after prenatal sex determination. These rotten fishes are degrading the noble profession and tarnishing the doctor's image totally. (7)

If the patient really matters than the Opinion Leaders - the Medical Ethics Boards - the Professional Organizations –the Ministry of Health - the Government should take responsibility.(2) The Supreme Court of India, way back passed the legislation of Indian Penal Code, 1860 sections 52, 80, 81, 83, 88, 90, 91, 92 304-A, 337 and 338 which contain the law of medical malpractice (1) but due to poor implementation it is not peculiar to India about indifferences towards victims of accidents and those in emergency medical conditions and even to women under labour. Strong, inflexible legislations and laws which are uniformly executed with regular amendments is perhaps, the ultimate time tested solution to exterminate this terrorism. The Law Commission Of India, in its 201st report on Emergency Medical Care, drafted a model law in August 2006, under Justice M. Jagannadha Rao, Law Commission of India, Chairman. The highlights are briefed below :

The Supreme Court reiterated its views and National Consumer Redressal Commission has also decided in like manner. The Apex Court emphasized the need for making it obligatory for hospitals and medical practitioners to provide emergency medical care. 'Medico legal ground' or 'police report' is not the only reason for not attending on injured persons or any medical emergency, for sometimes, such persons are turned out on the ground that they are not in a position to make payment immediately or that they have no insurance or that they are not members of any scheme which entitles them to medical reimbursement.(8) The Law Commission has taken up the subject seriously in view of the observations of the Supreme Court . Failing of this imposed mandatory duty, the defaulter can be punished under the criminal law. If the hospital or medical practitioner does not have facilities for screening, stabilization or emergency medical treatment, the persons have to be transferred to another hospital or to a medical practitioner having facilities. As to what safeguards have to be taken while making the transfer, as to calling for the services of an ambulance , as to how the persons should be taken care of during transit, all these matters are provided in detail in the Bill annexed to the Report. The hospitals and medical practitioners have to maintain registers as to screening, stabilization, treatment or any transfer. (8) Application upon the Report and the Bill by all States, the huge gap in the law will be legislatively plugged.

In a recent interview, Union Minister Maneka Gandhi has urged all public to 'name and shame greedy doctors' and the Health Ministry to bring in strict regulations to check the 'alarming trend' of C-section surgeries in India. She suggested that Hospitals and Nursing homes should be made to display how many C – section and normal deliveries they have performed in a month. The minister for Women and Child Development expressed deep concern over the 'increasing trend of hospitals forcing expecting mothers' to undergo C – section surgery. ' I would like all women in India to get together and start protesting campaign because a caesarean for a woman is very invasive and it turns a natural delivery into something that is an unnecessary operation', told Minister Maneka.(9)

What the number of C- sections should be – 10 to 15% of total deliveries (according to WHO). What the reality is – in Telangana, the situation is worst with C – section deliveries going as high as 75%, according to government statistics. The situation in private hospitals is more alarming. (10) The Telangana health department has not hesitated in taking stringent action and sealed six private hospitals in Mahbubnagar town for performing unwanted C – section deliveries and flouting compliance rules.(9)In a statement the ministry has directed all private hospitals to share monthly data of all deliveries performed with district health authorities. (9)

It can be recalled here that the West Bengal assembly passed a stringent bill recently this year to regulate functioning of private health facilities, providing for up to three-year jail terms and trials under the IPC for offenders and fines/compensations up to Rs 50 lakh in case of death of patients due to medical negligence. The legislation, aimed at bringing transparency, ending harassment of patients and also brings clinics, dispensaries and polyclinics under its ambit.(11)

The Bill quotes "Acid attack and rape victims and emergency patients must be given proper and prompt treatment. That, estimate will not go beyond a certain limit and that limit will be decided by the Commission."(11) Fortunately, the National Health Policy developed after extensive consultation will improve health outcomes and reduce out of pocket expenses, consequently building a Healthy India.

Being a doctor myself, I earnestly solicitate all doctors that a totally committed and professional approach is absolutely essential. Trust is the single vital ingredient in doctor-patient-people relationship. Earlier medical practitioners struggled with unbelievably large numbers of patient, today the numbers of patients are much smaller, but their qualitative demands are much higher. To return the trust on doctor and to fulfil these demands one must practice 'Good medical practice (GMP)' as a set of values, behaviours and relationships. GMP has several components like medical professionalism (competence), doctor-patient relationship, good communication and attitude, judicious use of investigations, good prescribing and practicing within medical ethics. The best possible GMP is where compassionate health care can be provided to patient or community within the available resources in a specific setting, doing justice to the profession within ethics, respecting persons and their autonomy, telling truth with informed consent, keeping confidentiality and giving maximum beneficence to the patient with non-maleficence. (7)

To end the conflict between doctor and public, to stop using the term like 'Medical Terrorism'; a tolerant, fore bearing and polite approach can go a long way in restoring the lost faith on doctors.(7)As they say, in every field there are two categories of people – grass rooters and parachuters . Following the basic principle of Nature the former ascends and the latter always descends! An analogy which we all understand.

Concluding with a well known pithy saying "A doctor cures the disease, but a good doctor cures the patient".

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