

## **Let us de-criminalise medical accidents**

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It is an exclusive scientific discipline in which measures to stop medical accidents are formulated and implemented. According to the British Medical Council's estimates, medical insurance amounting to 240 crore pounds was paid in Britain in 2018-19 alone. In the U.S. and European countries, lakhs of medical accidents are registered annually.

But in no country a medical accident is treated as a crime. In the medical treatment of a patient, the doctors, nurses, paramedics, pharmacists, lab technicians, drug manufacturers, medical equipment manufacturers and personnel maintaining them have roles to perform, each no less vital than the other. So, the medical treatment process is a joint exercise. If even a small error occurs in the functioning of anyone of them, it will ultimately affect the

patient. So, it's highly challenging for the management of a hospital to regulate such a complex process. Every hospital keeps spending lakhs and lakhs of dollars on regulation and monitoring of these back-to-back clinical activities, says Mark Graban in his book "Lean Hospitals: Improving Quality, Patient Safety and Employee Engagement."

## **Criminalisation**

An accident can hardly be treated as a crime and is per se an accident. To define an incident as a crime, the actual and real intention behind it must be gauged. But there's no room for mala fide intention behind a medical accident. Hence, to criminalise medical accidents will trigger negative effects on the society.

In the recent case of a young football player's unfortunate death in the hospital, the electronic and social media outlets kept transmitting visual after visual of the doctors concerned as if they were criminals. In fact, the whole episode flies in the face of natural justice. This kind of criminalization sets off waves of panic among the doctors, paramedics and nurses.

Giving a clinical treatment is not just a job. An individual's sincere engagement is also involved in the occupation. The work of conducting a surgery in the operation theatre, standing for eight hours at a stretch and monitoring the patient's aesthetic level cannot be done merely as a job. Passion, sincerity, professional skill and dedication are the qualities that have a major role in performing successful surgeries and giving further medical treatment.

However, the trend of letting loose an unnecessary fear psychosis among the doctors and other medical personnel will result in generation of bad approaches at the ground level. Any group of doctors will consider it as a feat to medically treat the injured legs

of a young football player and set them right. But unfortunately, when an accident happens during treatment, it is blown out of proportions. When the issue is twisted so as to turn a bad spotlight on some individual doctors, this trend will in the long run create a mindset among the doctors who will begin thinking more about their safety rather than about the life of a patient.

## **India, a developing country**

Tamil Nadu has made big achievements in health sector in a short span of time. With less manpower and infrastructure available, medical treatment is given efficiently up to the last patient. The medical practices and norms spoken about widely do not seem to square with the Indian context. In developed countries, a doctor offers consultations to 10 to 20 patients a day, keeping others on the waiting list. In England, it is mandatory that two anaesthesiologists are present during a surgery. If these rules are enforced in India, a developing country, lakhs of patients will be kept on the waiting list and will ultimately prove anti-people.

The Supreme Court in Jacob Mathew vs State of Punjab case had directed that no criminal case be registered under section of 304 (a) of the IPC on medical accidents and that medical accidents should not be treated as criminal offences.

## **State of Social Justice**

In health indices, Tamil Nadu has improved significantly. It can be mainly attributed to the fact that the state's Health Department has on its payrolls personnel from all sections of the society.

Medical accidents happen in both public and private sectors. But medical accidents happening in the government hospitals are blown out of proportions for political reasons. It will lead to the

general public's loss of faith in the government sector and to the mushrooming growth of the private sector.

The medical personnel must treat the people with respect; trust between the medical personnel and patients must be created; people from all sections of the society must be employed in the medical field on the principle of social justice; reasonable compensation must be paid in case of medical accident and fund allocation for the medical sector must be increased. All these measures will build up a proper medical infrastructure.

Instead, criminalization of medical activities, creation of an atmosphere of fear psychosis, criminal action against medical accidents, blowing medical accidents out of proportions and the attitude of 'tit for tat' - all these things will in the long run turn the medical infrastructure upside down.

Nowhere in the world has it become possible to stop medical accidents altogether. Perhaps at one point of time in the seamless progress of science it will become possible.

The Chandrayan 2 spacecraft which a fabulous amount of crores of rupees was spent on missed its target. Then, did we call it a crime committed out of indifference? No. We say it was an accident. Same is the case with the medical science, a discipline no less mind-boggling and complex.

All medical personnel including doctors are part of the people. It is actually members of the public, who have become medical professionals. Both segments must realize this fact. Then only an accident-free system of medical cure will become possible.

**Translated by V.Mariappan.**