



Medical negligence and unethical medical malpractices: Comprehensive analysis

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Abstract

Medical malpractices and unethical practice in India is so common and so rampant that the Indians have come to accept it as a way of life, quite like the rising prices, haughtiness of the political leaders; corruption in the police and all other government departments; cheating by shopkeepers; non delivery of the promised service and subsequent harassment by the private sector companies; and milling crowds wherever you go. During the past twenty years, following the liberalisation, policies have given spark to the medical sector and new corporate and multi-speciality hospitals are coming up daily. Commercialisation medical facilities have made situation worst for people due to this every year almost 6000 people comes under poverty line due to their medical expenses.

Keywords: medical negligence, medical ethics, unethical medical practices, and duties and liabilities

Introduction

Prelude

Medical malpractices and unethical practice in India is so common and so rampant that the Indians have come to accept it as a way of life, quite like the rising prices, haughtiness of the political leaders; corruption in the police and all other government departments; cheating by shopkeepers; non delivery of the promised service and subsequent harassment by the private sector companies; and milling crowds wherever you go^[1].

Viewing the current scenario Dr. Ajgoankar has stated that “we have seen how the unimaginable becomes possible, when conscience stops working, and brilliant brains start working in the wrong direction^[2]. The author of the famous Sherlock Holmes, stories and himself a physician stated:

“When a doctor does go wrong he is the first of criminals. He has the nerve and he has the knowledge.”

-----Sir Arthur Conan Doyle, The speckled Band

Commercialization of medicine in India

During the past twenty years, following the liberalisation, policies have given spark to the medical sector and new corporate and multi-speciality hospitals are coming up daily. These hospitals are bright and glittering. I must say they are like the shopping malls or luxurious hotels sometimes they are registered as charitable trusts but their only objective is to earn profit. This commercialisation of medicine has made the situation worst and the cost of treatment and the medicines have gone out of the reach of the common people. Now days the Doctors are more of the corporate peeps than the service providers. I must say this has improved the quality of treatment but it too adds extra burden on the patient’s pocket.

Medical Malpractices in India

Medical practice is of dignity and honour and is expected to

serve the suffering humanity be it rich or poor irrespective of caste or creed. After having professional degree the doctors are supposed to uphold the moral values in discharging their duties. Patients treat doctors none other than the GOD.

However the things have reversed in the recent past and the emphasis is on making money through corrupt practices. The important facet is the responsibility of government and the MCI which in today’s times is far away. The system laid down is neither followed nor strictly adhered to. This has resulted in a free hand to the Pharma companies, Path Labs and the Doctors to play foul. The sole purpose is to amass the wealth at the cost of the poor suffering patients.

What I’m going to reveal will leave you bewildered and give you a jolt to know that what kind of malpractices are being carried out by the Doctors? It’s really morose to tell that the services in alleviating the illness have changed their concern.

The scene is that the Doctors are treating their patients just to rake money in their vaults. Expansion of Pharma companies, Path labs and Privatisation of hospitals has made this situation more howering.

Everybody knows the medical practice is a sacred job which is raptly attached with human emotions and sentiments. Where earning money is facile task, but it is totally different. It’s surprising to know that the doctors for their own monetary benefit identify some medical stores to procure the prescribed medicine written by the doctor at sky shooting cost.

In my recent research, I have come through with some hideous truth of this industry where patients are being exploited by their doctors, and are required to visit them again and again, for their consultation charges.

Doctor’s greed has increased to that extent where they are least concerned about patient’s health and financial condition. Lack of strict Government policies corporate hospitals are growing very rampantly. They put pressure on their doctors and give them targets for stent, Self-imposed C-Section Deliveries, Unwanted surgeries, Path Tests so that they can

generate good revenue for the hospitals, so much so that the dead persons are kept on ventilator to increase the amount of bill

It's really harsh that we cannot rely on our doctors. Though our lifestyle has changed drastically and more sedentary because of pollution and unhealthy food, the disease has also increased. Under the garb of these facts the doctors take the advantage and misguide the patients for very many diseases including Cancer. Earlier Cancer was a rare diseases but it is very common now a days, the research says that 1 out of every 10 person is suffering from it.

Similarly C-section deliveries ratio was 8% -10% according to WHO in any country, but it has increased up to 51% which is enormous (Haryana). Normal delivery of a child in our country seems to have lost the potential because of the avarice of the doctors, the C-section method is adopted.

In cardiac patients stents at times are unnecessarily implanted, and at times maliciously charged.

Ovarian cancer has wrongly been diagnosed by the doctors in the country. As per recent news there were more than 2500 women from Bengaluru whose ovaries were extracted by the doctors just to subset their greed's [3].

We have named only a few diseases the list is endless. Suddenly we have become mentally tuned to the pressure of the Doctors to fill their coffers.

How they are different from Medical Negligence: It is very important to know the difference between medical negligence and unethical medical malpractices.

“No doctor knows everything. There's a reason why it's called “practising” medicine.”

Anonymous

What is medical negligence?

Negligence does not have any precise definition, as the field of medicine is developing day by day; every other day new technologies are taking over. Since no man is born perfect in this world, there is evidence that a person who has perfect knowledge and command over the subject can commit mistake during his practice. Such mistakes in medical profession can lead to serious injuries sometimes this kind of mistakes cause death of the patient also.

Medical negligence

- Breach of legal duty to care or attention
- Culpable carelessness
- Damages
- Careless examination of patient mistake in taking proper history leads to wrong diagnostic and faulty prescriptions.

Medical negligence defined as lack of reasonable care skill and wilful negligence on the part of doctors cause great risk and harm. Carefulness and skills depend upon doctor's experience. The law does not expect which is impossible but reasonable level towards the work which can deter the risk of patients. Thus the degree of care by law is varying. The legal duty of every person given by Indian constitution is to respect the legal rights of others.

Medical negligence is the vast field to discuss but few of them are when reasonable care is not taken during operation, the

diagnosis, delivery of the child, the admission of patient, carelessness of supporting staff. The ambit of this subject is endless but we limit ourselves to understand the basic concept of medical negligence.

Liability of medical negligence has long history and earlier it was impossible to sue the medical professional because of their high esteem societal image, But in current scenario, circumstances have changed the present situation too. Nowadays a numbers of cases against health care professionals are increasing day by day.

Reasons of sudden increase in cases are:

- Sky shooting medical cost
- Increase in literacy level
- Increase in technology
- Globalization
- Revolution in IT field
- Social Media
- Changes in the values of the society
- Lack in bonding of doctor patient relationship
- High expectation of the patients

Constituents of Medical Negligence

The definition of medical negligence given in Ireland is medical “negligence is considered to be any action made by a doctor or medical professional (such as a dentist, nurse or physiotherapist) which led to you suffering an avoidable injury or has caused you some harm as a patient” [4].

The essential components of medical negligence are

- Existence of duty to care
- Failure to attend standard care
- There must be some damages

In order to understand the meaning of medical negligence we must know all components of the medical negligence:

Existence of duty to care: Whenever we approach a person to seek some advice from him on a particular subject, in which he possess certain skills and special knowledge then it is implied that he will act prudently. Every time, we visit a doctor for ailment does not enter in to in and expressed it is his duty to give proper care and right treatment to the patients. Any kind of negligence can make the doctor liable

Failure to attend standard care: When in any treatment the doctor fails to attend the standard care and does not perform prudently, he will be held liable for being negligent. These standards are not so very high but these are expected by man in ordinary course of work.

There must be some damages: Anything wrong or injury done by other, such negligence will be held liable to compensation in term of money or whatever the medium determined by the court. For awarding compensation consumer forum have to take all the information related to the matter. It's up to consumer forum that how much reasonable compensation shall be awarded, which is solely based on facts and circumstance of the case. We must remember one Latin maxim “Where there is legal right, there is legal remedy” Ubi

jus ibiremedium^[5].

Indian Society is growing and nowadays people are very much aware of their rights. This clearly shows the recent spurt in litigations in the term medical professional or establishment liability, claiming compensation for the suffering caused due to medical negligence.

Our country is committed to the Rule of law, and all the matters related to medical negligence are taken to the court where judges are supposed to decide the case. Negligence by the doctors is really a herculean task to decide by the judges who are not from the medical field and they take experts' advice in these types of cases.

The liability of the person committing the wrong can depend on the harm caused to other:

Civil Liability (Tortious liability): The person who possesses some special knowledge and owes to care other under the duty primarily fixed by law, and fails to perform his duty, then that person is held liable for breach of duty. Then the damages occurred by his mistake make him responsible to pay the compensation to the party. In any hospital if the doctors, the staff and other junior authorities couldn't perform their duty then also the doctors will be held liable vicariously for the wrong to others.

Definition of negligence under torts involves

- A legal duty perform
- Breach of duty
- Damages to other party

Criminal Liability: A reckless act is that where a person is held liable for consequences of highly probable outcome of his action. The may be an action where the patient died due to negligence of the doctor. The doctor will be liable under criminal case under section 304 (Punishment for culpable homicide not amounting to murder). Here the negligence is so great where compensation will not be enough, because it has shown great ignorance on his part and risked the life and safety of the patient which brought criminal charges against him.

Some come in the category of resipsaloquiter (The fact speaks for itself^[6]): In rule of law the burden of proof always lies on the complainant and he is supposed to prove all the charges. Here the maxim says that the negligence is so obvious that it speaks for itself and the burden of proof is not on the complainant.

Hucks v Cole^[7] (1968): Resipsaloquiter is a rule of evidence which in reality belongs to the law of torts. In criminal proceedings, the burden of proving negligence as an essential ingredient of the offence lies on the prosecution. In our opinion, a case under section 304A cannot be decided solely by applying the rule of res ipsaloquiter^[8].

Some common examples are

- Injecting wrong doses of anesthesia.
- Operation of wrong limbs, removal of wrong organ;
- Leaving the instrument in abdomen after the surgery;
- Wrong blood group transfusion;

- Too tight plaster that splints and causes gangrene;
- Criminal abortion;

Criminal rashness means where doctors negligent act puts patients life in danger with the knowledge that may cause hazarding injury to the patient but without any intention that this may probably cause. Death and injury should directly result of the act. Section 336,337,338 all these section deals with the term rash and negligent act.

Contributory Negligence: In this kind of negligence patient will be held liable "some of the contributory negligence's are as follows":

- Leaving the hospital without the doctors permission
- Not turning up for the follow up treatment
- Fails to follow the doctor's advice
- Not following doctor's instructions

When the damages attribute partial fault of doctor and partial of patients then the amount of the compensation may be reduced or in some cause the amount of compensation cannot be recovered.

But there are a number of cases which deal in both civil and criminal laws. These two remedies are mutually exclusive but essentially differ in their context and consequences. The object of criminal liability is to punish an offender and the object of civil liability is not to punish but to get the compensation. In Maya Bagchi vs Dr. Sumir Dev Gupta & Anr^[9]. In this case the complainant's glaucoma had to be operated for a second time, because the complainant couldn't turn up for follow up and was negligent in taking care of herself then the liability of the doctor was not established. The patient was contributory liable the act.

Some cases of medical negligence's are

The Bolam Test: The judgment given by Mr. Justice Mc Nair in Bolam vs. Frien^[10] hospital management committee (1951) IS a landmark decision in deciding cases of medical negligence and is known as the "Bolam test".

Negligence in law means failure to do, which a reasonable man in the circumstances would do: or doing something, which a reasonable man in the circumstances would not do^[11].

"The test is the standard of the ordinary skilled man exercising and professing to have that special skill. A man need not possess the highest expert skill, it is a well established law that it is sufficient if he exercises the ordinary skill of an ordinary competent man exercising' that particular art (a health care professional), is not guilty of negligence if he has 'acted in accordance with a practice accepted as proper by a responsible body of medical man skilled in the particular act^[12]."

In the case of medical practitioner, negligence means failing to act in accordance with standard of reasonable competent medical practitioner at time. This is perfectly fine when there are two to three ways to treat the person and the medical practitioners treat the patient in some or other way this would not amount to medical negligence.

But at the time that person says that he will treat the person with his old perception and would not use new treatment techniques that will not be accepted and called medical

negligence.

Jacob Mathew Case ^[13]: In this case the patient was of CMC hospital in Ludhiana. He was feeling difficulty in breathing but no doctor turned up for next 20 minutes. Late – Dr. Jacob Mathew and Dr. Allen Joseph immediately connected oxygen cylinder to the patient but the breathing problem increased because the cylinder was empty till they brought another one and the patient died. The matter against the doctor and staff brought in the court. After the discussion the court analysed the aspect of negligence.

Prudent patient case: Roger vs Whitaker ^[14] (1933) with the advancement of rights to know concept now it's a right of patients or his relatives to know all the facts of the case and the consequences of the treatment.

Eckersley v Binnie (1988): Where a profession embraces a range of views as to what is an acceptable standard of conduct, the competence of the defendant is to be judged by the lowest standard that would be regarded as acceptable ^[15]. Smt. Madhubalavs Govt. Of NctOf Delhi And Ors. on 8 April ^[16], 2005Equivalent citations: 118 (2005) DLT 515, 2005 (82) DRJ 92

Degrees of negligence

- **Lata Culpa, gross neglect**: Culpa lata means gross neglect or wonton fault this word can be applied to acts of commission and omission in both torts and contract cases. This term says failure to perform a legal duty ^[17].
- **Levis Culpa, ordinary neglect**: this word stand for common and ordinary negligence or the absence of reasonable care ^[18].
- **Levissima Culpa, slight neglect**: this arise for slightest fault, very slight negligence resulted from failure exercise most exact care ^[19].

In the case court held that every act of doctor where he was slightly negligent will not hold him liable for compensation or punishment. If the patient could not give full information to doctor and not able to reach the hospital in time then the doctor will not be liable.

Laxman Balkrishna Joshi v. Dr. Trimbak Babu Godbole ^[20]: In this case the court held that when a person visits the doctor, it is the doctors implied duty to take care of that patient, deciding what treatment to be given and duly to take care in the administration of the treatment. Any breach of these duties gives a right of action for negligence to the patient. The medical practitioner must bring his task to a reasonable care, skill and knowledge. In this a doctor is free to use any of the method of treatment on his discretion that what treatment to be given to the patient. In this case the death of the patient due to excessive pain following the procedure without anaesthesia. The doctor was held guilty of negligence. Paschim Banga Khot Mazdoor Samiti & others vs Government of West Bengal ^[21] Under article 21 & 32 It was held that Denial of medical assistance to the petitioner by the state Hospital amounted to violation of the right to life under article 21.

In Poonam Verma v. Ashwin Patel and Ors., (1996) 4 SCC 332, ^[22] a doctor registered as medical practitioner and entitled to practice in Homoeopathy only, prescribed an allopathic medicine to the patient. The patient died. The doctor was held to be negligent and liable to compensate.

I would like to go through some of the court judgements and will try to narrate what is expected from the Medical practitioner as a reasonable person. And will share some examples of the medical negligence claims. As these issues are at the core of medical profession.

Some examples of medical negligence claims against specialists may include:

- Failure to diagnose or treat a serious illness.
- Failure to treat a serious illness.
- Failure to warn about the risks.
- Failure to take proper decision for referring patient to the specialist.
- Failure to take informed consent.
- Failure to carry out an operation with the required standard of reasonable care.
- Delay in providing a proper standard of medical care.
- Failure to have proper medical amenities

What practices are unethical medical malpractices?

Initially, Doctors were seen in India as next to God and Medical profession was admired for their competence and ethical attitude. But later majority crept into mal practice and deterioration was seen in ethical standard of this profession. Doctors saw this as an easy opportunity to amass wealth resulting in general fall from the standard practicing norms. Indian Council of Medical Research (ICMR) laid down certain procedures for the profession which were strictly adhered by medical community.

Most of the treatments were given by Government hospitals practically at no cost but the lure of money resulted in mushroom growth of private hospitals and diagnostic centres. Doctors unscrupulously prescribed unnecessary tests and drew commission from them.

The fall of moral began rapidly which resulted in unethical attitude and violation of law by the Doctors. These two aspects are intertwined. This also resulted in the change in attitude of medical profession from *service to humanity* to *amassing wealth* by unethical practice like 'Organ transplant', prescribing 'unwanted pathological tests' and 'surgeries'.

Way back in 2010 caesarean or C-sections were limited to 8.5% of all deliveries in India. World Health Organisation (WHO) ^[23] laid down recommended level of 10-15% taking into account the number of C-section needed for complicated birth and curbing maternal mortality rates.

Situation has drastically changed now. One study (Jan 2007 to Dec 2010) demonstrated a hike from 31% to 51% over just six years in rural Haryana ^[24].

The cancer of corruption is eating into medical sector more widely than ever before. There are frequent reports of needless or unwanted procedure like insertion of *stents into healthy hearts, prescribing caesarean births, replacement workable knees, etc...* All these malpractices are aimed at making big money by unscrupulous practices.

The new entrants to the medical field were treating the profession as a "commercial venture" to make fast bucks by

resorting to all unethical practices encouraging middlemen and other illegal methods.

The pandemic business of cut practices and racket of referrals

Cut practice and the racket of referrals occur in many forms. The famous show of Aamir Khan Satyamev Jayate there were renowned doctor of London in the field of heart surgeries who came to India but left soon because of these type cut practices. In recent time I have come across with a few cases where the doctor referred the patient to a particular laboratory and if he was obstinate and got done his test from somewhere else the Doctors would refuse to accept his result. These practices are very common now days; if you refuse to get your test done from the recommended prescribed test lab they will not accept. This practice well planned and well established where doctor gets their share on monthly basis.

Referring patient to other for further consultation has become a trend now. The specialist gives share of this income to the referring Doctors. Business of referring has grown so rapidly and their ability to think, diagnose and treat the patient erodes over the years and they become qualified referral clerks [25].

In many towns and cities in India doctors open their own drug stores and they refer their patients to purchase their medicine from their only and make this practice more strong they prescribed those medicines which can only be found on their medical stores in town and will not be available in anywhere in town.

Unethical Promotion of Certain medicine

Marketing of medicine in India: Informing, influencing or Inducing? [26] In this editorial Mr. Gulati has examined the entire business of unethical promotion of drugs in India. India has large pharmaceutical industry. A major expansion started in early 1970s when the India government took two fateful decisions. Firstly, it decided to permit domestic manufacturer to produce generic medicine version of patented molecules without permission from overseas innovators-provided a different manufacturing process was employed. Secondly, small scale pharmaceutical units were eligible for huge fiscal incentives and state subsidies [27].

These two new policies have brought drastic change in the Indian pharmaceutical business. According to research of some institutions today an estimated 20,000 pharmaceutical companies produce 60,000 branded formulations, which is many times more than the rest of the world. According to same sources Indian pharmaceutical industry is worth about Rs. 300 billion [28].

The interaction between doctors and medical representatives (popularly known as MRs) is almost as old as the medical profession itself [29]. If we see the basic role of MRs is to give insight of his medicine and brand to doctors. There is harm and wrong in it. In fact medical council of India says that doctors have to upgrade their knowledge from time to time with latest innovation in the field of medicine.

In Our country doctors are held in high esteem by patients, they are considered second 'GOD' by most of the patients. But alas this relationship between patient and doctor is no more sacred. Doctors, who are frequently in connection with

patient's medical representative, find it easy to target innocent people through our doctors. Doctors are more likely to prescribe new and expensive medicines which are introduced by MRs to achieve their companies target for their selfish end (to receive more and more commission from these pimps).

The steering committee report submitted to the commission for the 12th five year plan says there is need for a mandatory code for identifying and penalizing unethical promotion on the part of pharma companies [30].

To avoid medical conflicts of interest, the US government is proposing to bring in a law that would require drug companies to disclose the payments they make to doctors for research, consulting, speaking, travel and entertainment. "Such practices can be replicated in India," the committee said [31].

It said habitual violations of guidelines should attract disciplinary action. "There is a need to revise and strengthen the existing regulatory mechanism for medical practice to prevent wilful negligence and malpractice," it said [32].

The ministry says incorrect drug choices, overdose, under dose and choice of more expensive drugs when less expensive drugs would be equally or more effective is a major problem in public health facilities [33].

Former Health minister Ghulam Nabi Azad had taken the step to break the nexus. He had given instruction to the government hospitals and its doctors to prescribe generic medicines to their patients [34]. He further added that doctors prescribed those pain killers which are of big giant pharma companies and which give them maximum benefits, are easily available on generic medical stores. In one of the interview of Darshan Mittal, Delhi Generic Medicine Dealers Association he said that Generic medicines are equally effective and cheaper and easily available in market and further he added that if doctor doesn't know the name of the medicine then they can prescribe salt name [35].

In my research of unethical medicine brings me to realize that the interaction between doctor and pharma companies should be in certain limits and boundaries enacted by the government. But I know this would be impossible or illegal to restrict their relation. The real challenge for our government to make such policies and guidelines can curb these type of practices.

Mushroom growth of drug companies is mainly responsible for unethical practices. Since one Drug Company in order to overshadow another companies give their medicine on cheaper price and directly offer or target doctors for their sale. If the retail price of the drugs, quality and quantity is regulated by the government there are chances these practices can be eliminated from the system.

Codes which deal with the promotion of drugs are

- 1 International Federation of Pharmaceutical Manufacturers (IFPMA) code of Pharmaceutical Marketing Practices-updated in 1994
- 2 Criteria for medicinal drug promotion-prepared by World Health Organisation (WHO) in 1988
- 3 Guidelines on IFPMA Code of Pharmaceutical Marketing Practices-prepared by OPPI
- 4 International Code on Pharmaceuticals-prepared by Health Action International (HAI)

Undue advantage of patients by unnecessary diagnostic tests

“You may not be able to read a doctor's handwriting and prescription, but you'll notice his bills are neatly typewritten.”

Earl Wilson

There would be hardly any incident when you go to a doctor for stomach ache and you got list of path lab test once a while everyone have been victim of this kind of torment. The situation has become pitiable and status of healthcare industry in India has become cause of worry. If I talk about an era where science was not so advanced and our doctors used to identify our problems just with a conversation, now it has become a dream, the more advanced technology and availability of diagnostic tools, have made our doctors plodding and inattentive.

In my recent studies I have seen that the Supreme Court of India gave guidelines that no one can file a case against the doctors for their malpractices, what else we want to know. They have given liberty to the doctors to play foul. If I compare other countries with these kinds of cases we can see there are ample examples where doctors have been punished for being negligent but in our country of over a billion there is hardly any case^[36].

When we rush to hospitals for some emergency we are immediately ordered by doctors for some tests. I don't mean that these all tests are unwanted but in one interview where almost 85% doctors have admitted that they call for too many tests of which they know the result and that the test would not help in the treatment. Reporting in the journal *Academic Emergency Medicine*, the authors also say that nearly all of the doctors—97%—admitted to personally ordering unnecessary imaging tests^[37].

So many physicians have accepted that they prescribe unnecessary test to their patients which clearly shows the avarices of the doctors, The reasons I found in my study were First is where doctors actually missing something for right treatment. Second is enormous pressure of the private hospitals.

Extra test doesn't mean more chance finding something wrong In Dr. N.C. Asthana book where Professor Paul Monagle of University of Melbourne clearly says that their clinical diagnosis have become poor and they do not want to devote more time on talking and taking detailed history of physical examination to identify actual root cause of the problem^[38].

The study, led by physicians from the Mount Sinai Medical Centre and the Weill Cornell Medical College in New York, was published online in October, where data from federal medical surveys, estimated that 12 of those unnecessary treatments and screenings accounted for \$6.8 billion in medical costs in 2009^[39].

As patient we rely on our doctors and think whatever procedure has been adopted by our doctors is necessary for our treatment, and blindly give our consent to these tests. But, there are some physicians and hospitals that order some path tests unnecessarily – and they simply do these just to raise their bill amount in other term these tests are known as BASIN TEST(where they directly put our blood in basin).

Perilous of unnecessary tests

While some people think these tests are completely harmless but they are not. Any kind of unnecessary treatment and procedure adopted by the doctors is always harmful for patients, because in this situation patients have to go through unwanted needle punctures, blood transfusions or even colonoscopies that increase the risk of infection. “The more tests a person have the more chances of false positive test”^[40]. In an interview one doctor said if a healthy individual puts on is put to some unnecessary test there are 40% chances that he may have at least one.

In a survey of The ABIM Foundation by Perry Udem Research/ Communication on May 1, 2014 many physicians accepted that unwanted tests and procedures are serious problem in the health care system, where patients are unwantedly exposed to unnecessary procedures. In their report they showed that top reason of the unwanted tests and procedures was malpractices.

Common tests that are unnecessarily ordered

- X-rays
- Heart screening tests
- CT scans
- Colonoscopies
- Endoscopies
- CT and MRI scans for muscle aches or back pain
- Imaging tests for headaches
- Antibiotics for sinus infections, colds and other illnesses that do not need antibiotics
- Throat cultures
- Frequent PAP smears
- Breast examinations
- Blood draws
- Ultrasounds
- Thyroid Function Tests
- Diabetes Test
- Arthritis test

Many of these tests can cause anxiety and pain to their patients and unnecessary radiations can expose you to increase the risk of cancer.

Useless and most copious angioplasties

Angioplasty is also called balloon angioplasty or percutaneous coronary intervention (PCI), is a procedure that involves inflating a balloon on the tip of a catheter inserted into a narrowed artery^[41]. A major change in society and science technology can be seen in surroundings; the economic growth and urbanisation of societies have great impact on almost everything. Now people are more concerned about their health and they have more power to spend money whether it's on life style or on hospitals bills and in this situation hospitals and doctors are taking advantage of our sedentary life style.

Scam business of unwanted Stents

Studies in the US have shown that almost half the cases of stenting may have been unnecessary and cardiologists in India have also admitted that inappropriate stenting is quite prevalent here too.

In an article published in the latest issue of the Journal of American Medical Association (JAMA), London-based cardiologist Dr Aseem Malhotra ^[42] wrote that there are no studies that show the extra ordinary benefit of the stenting but majority of the patients are asking for that and the doctors and private hospital are taking advantage of the patients by fooling them different packages of the different kinds of stents.

Eminent doctors of India said that unwanted cardiac procedure in India is really very common and it has become a major problem. Every time the blockage is not a serious problem and it does not require any surgery, instead of that hardly a few percentage of the patients are really in need of these expensive procedure of angioplasty and angiography, without which a person could die. But it is really morose that patients family members are not informed properly and at this moment of time they are pressurised by the doctor for the treatment and with the fear of losing their dear one they give their consent for this procedure of stent, said ^[43] cardiac surgeon Dr Devi Shetty of Narayana Hrudayalaya.

In the article in JAMA “The whole Truth about coronary stent Dr. Malhotra said that in a study in the US almost half of the stenting done was not necessary ^[44]. Further Dr. Malhotra added that maximum stenting was done was not really required and the patients with mild chest pain and discomfort due to poor blood flow have been operated for stenting or angioplasty, in which doctor was already knowing that they would not be of benefit.

Senior cardiologist in Apollo Health City, Hyderabad, Dr Manoj Agarwal, felt that there is no proper monitoring in India and if a cardiac condition could be managed medically, then there is no need of stenting. In spite of all that if a doctor still uses a stent when the condition is not critical, It is called as misuse and unethical medical practices. The onus of all these unwanted and unnecessary procedure should be on the hospitals and there should be proper *monitoring for each and every case*.

However, many patients think that stenting would prevent heart attack and will give them prolonged life. In many cases these have been seen that patients have been told by their doctors that it can improve their lifestyle and will give them life without the risk of heart attack. Unnecessary stenting alone is estimated to cost the US healthcare system about \$2.4 billion per year ^[45].

The study under FDA joint commissioner vigilance DM Phadtare has revealed that the MRP of the imported stents was inflated by 300 per cent to 700 per cent of the actual cost of import ^[46].

With no proper rules regulation and policies, misuse and overuse of something is always seen or will always happen. There are many cases that have been reported where a patients can be treated with only medication but they have been advised stent implant or bypass surgery.

An article in Ganesh N. Mumbai, May 2014-2015 Heart of the matter: Unwanted implant of stents raises concern by Deccan Chronicle and Kaniza Garari It was clearly mentioned that 15% of stent implants in the patients are not really needed, and those implants which was done by the doctors were misuse or unethical.

According to data released by the cardiology society in India in the year of 2014-2015 it is really important to decide that

whether a patient really requires stent or bypass surgery or not.

The data which was released by the society was so surprising; the total number consumption of stents in a year of 2014-2015 in India was 4.75 lacks ^[47]. The incident has been seen where patients with mild chest pain went to doctor for check-up during their coronary angiogram doctor send their person to family person with message that the condition of the patients is really critical and it is really hard for him to survive without stenting. The emotional and helpless family left with no choice except to say yes to doctor for stent surgery. Which is another type of unethical practice, where doctor give no time to family to decide and no information about the procedure?

Many cases have been seen where patients were opted for stent where it was really not needed, the evaluation and proper monitoring should be needed to control the unwanted stenting.

At Nizam’s Institute of Medical Sciences Dr. R.V. Kumar, Senior Cardio Thoracic surgeon said that There ought to be proper heart team is required to certain the need of stenting same as US. In The US there is separate team of a cardiologist, Cardio thoracic surgeon and other specialists who decide whether stent is required or not? But In India theses type of policies are still on paper.

The Aarogyasri Healthcare Scheme, price reduced the price from Rs 80,000 per procedure to Rs 40,000. A senior Aarogyasri officer said that a cost cut was done to curb the unwanted procedure under the scheme. According to doctor at least 40% of the procedure was not required. The decision was opposed by many cardiologists but the price of the procedure was not increased ^[48].

In an article by Rema Nagarajan in One in 3 stent implants in India is possibly unnecessary there is no regulatory body in India, Especially in private hospital to control stents and other devices. According to report almost 25 to 30% of stenting is not appropriate ^[49]. There are many eye opener cases have been seen where stents being used in normal patients.

The mushroom growth of stent business has raised many questions. The studies shows that in India there are hospitals who conduct more than 25000 stent surgeries in a year, are very close to stent maker and this is the another way to feed their avarice. While there is lots of disagreement between cardiologists that stent can save person’s life from heart attack. Few years ago In the US, studies had found that half of the stenting procedures were non-emergency and not appropriate, due to this several cardiologist and hospitals were asked for million dollars penalties for unnecessary stenting.

In 2009 criteria for appropriate use of stents was published by expert panel of cardiologist. Resulted in appropriate stenting in non-acute cases were fall from 25% to 13% ^[50]. Which was huge and the total number fell from 21000 to 8000. This study shows that in the absence of any monitoring or oversight, patients have no protection from unnecessary use of stent.

With the National Pharmaceutical Pricing Authority revealing that hospitals make the highest profit on stents, it seems obvious why hospitals are not pushing for audits to curb inappropriate use ^[51].

Re-labelling scam: How price pus++1+hed up

With the sky shooting demand of stent in the market gave chance to many companies to enter in to game, and the greed

of the companies and the doctors become the most important reason of unwarranted stent business in India. The looting of the stents are not end here there are many ways to fool their patients.

In a study it was shown that different brand of cardiac stent from the same company are priced differently, which leads patients to believe that there are qualitative difference between them. However documents presented by one company said that almost all the brands available in market are same in some other way. Companies often do rebranding or relabeling of the product which already exist in the market.

Companies priced stents according to their will there are not set criteria for the stent price in India. Many companies sale same stent in different price for instance rate given by Abbot Healthcare to Maharashtra government is 23,625. However many company sale it at exorbitant price.

In an article of local newspaper it was published that highest price fixed by the government for the stent is 30000, but some private hospital charge it 1.50 Lacs. And they claim superiority of one brand over other of the same stent. They often say they are using the best quality thing and that is the reason it is costly than other stents available in the market.

In a survey by DCGI [52] it was proved that all the stents available in the market are identical and in a report in head to comparison of the stent they were absolutely same. And the hospital and other companies for their monetary gain they relabelled or rebrand their product just to earn maximum profit. Quality assurance and superiority of the product and other issues is just market gimmick.

NPPA, a government agency which controls the price of pharmaceutical drugs in India stated in its February notification that the lowest price of the stent which is of metal as Rs 7260 and drug eluting stent Rs 29600. It means according to government notification dated 1 April the price of the stent is 7260 to max 30000 respectively.

According to this research it shows that all the stent available in the market on which doctors claim high quality, superiority over another or next generation stents these are the ways to extract huge money from the patient.

So on what basis cardiologist claim about the quality and brand over one another. They misled their patient for their monetary gain.

Most doctors tend to scare the patient into accepting the 'only' option available. With the doctor getting a 'cut' out of the cost of the stents used, there is a direct conflict of interest in the treatment involved.

Afternoon, 30 June 2014

A major change has occurred in last few years when new techniques were invented elsewhere and welcomed in India, it was an arrival of new technology which has made great impact on the aspect of cardiology and the decision to do angioplasty and stenting. More and more people were trapped in to this scam, and the new business techniques has been started to fool the patients. In a report of Very renowned newspaper of the town on 29 Feb 2017 (Rajastha Patrika) how doctors and hospital are targeting people for stenting, with different type marketing gimmicks for instance, central government of India fixed the price of highest quality stent is 30000 but the corporate hospital are charging whopping

amount which are starting from 150000 lacs.

Horrific truth of unwanted surgery

Surgeries make doctors a lot of money and unnecessary surgeries are not new in medicine. Doctors are also human being and they are not immune to lure of bigger profit. In a report of times July 22, 1988 by Robert Stein brook heart bypass surgery is often performed unnecessarily [53], RAND Corp. researchers reported today.

The detailed review of 386 case histories, being published in the Journal of the American Medical Assn., rated 14% of the surgeries "inappropriate" and said an additional 30% were performed for "equivocal" reasons [54]. Only 56% of the operations were clearly "appropriate," the researchers said [55]. Heart bypass surgery is the highly expensive surgery and technically complex operation. In which Surgeons restore an adequate blood supply to the heart by grafting blood vessels from elsewhere in the body around blockages in the arteries supplying blood to the heart [56]. At survey of the times almost 63% bypass surgeries were judged out of them only 37% were appropriate.

Sudden Increase in Caesarean delivery

In past few decades, the concept of unnecessary surgeries has developed, and the people who benefit from these procedures are the surgeon and hospitals who exorbitant extra amount from us. And the most common one is C- section deliveries which are being foisted on females to extract extra amount from the family. A survey report in newspaper shows that in Udaipur only out of 1500 delivery almost 540 deliveries were caesarean [57].

Knee Transplant

Unnecessary surgery is not new in medical and orthopaedic surgeons in the United States were, accuse of overdoing total knee replacement surgeries by almost a third. The most common and the famous surgery is knee transplant now a day every 10 will be seen with knee problem and the doctor advise them to knee transplant. This surgery has become the main source of the income to many orthopaedic.

Uterus Removal

The private health care sector in India is putting women's lives at risk. Decades of appallingly low investment in the public health sector has left India with a crumbling health system which is unable to meet the needs of its citizens. Private hospitals are putting women life at risk and being left with crippling debts to have unnecessary hysterectomies with huge price tags. In a research by NGO [58] Durga Prasad Saini, an advocate said that whatever abdominal problem a woman have or they are coming with, to visit the doctor the only treatment is to removal of uterus. The situation is worst doctor scared them to the core that they have cancer and their life is at danger there is no other way to survive except removal of uterus [59].

It has become facile task for to doctors to make money "the doctors make scared and misled them to undergo surgery even though it is required or not" Further the NGO asked for RTI and the results were so shocking to believe almost 70% of the women investigated had their uterus taken out.

Dr Narendra Gupta from Prayas, a partner organization working with Oxfam India, said: That unwanted, unnecessary and unreasonable hysterectomies are questionable. Women are being subjected to these procedures for financial gain is the violation of human rights too.

According to report in NDTV these surgeries are being carried out on younger and younger women. A study in the Guntur district of Andhra Pradesh found that almost 3000 women were without womb. In this study it was showed that when a woman visit to doctor for simple stomach ache they advised by doctor that its Hobson's choice either remove your uterus or die. They left with no choice and the public hospitals do not offer any solution. These practices are very common in rural area and the age of the women is in between 20 to 40 years [60].

Higher numbers of these kind of unethical practices are matter to concern, Insurance scheme made this situation worst. Subhash, a health activist, says, "11,000 hysterectomies have happened in just 18 months under the government's health insurance scheme for poor. Many more must be happening out there [61].

In a research many doctors admits that private clinics and doctors for the sake of the money they performed theses kind surgeries and push women to undergo these procedure. Lack of services and trained staff women are pushed to go to private hospital which put them in economic crunch.

Hysterectomies surgeries have become another tool to earn money for greedy doctors. As per the guidelines, this surgery cannot be performed for the minor health problem if there are any chances of cancer or any life threatening disease then only this can be advised.

In an Interview Chokarappu Ramulu [62] said that doctor first enquire about the children and if the lady has more than two children they advised her to go through with the surgery, if still they not ready they threaten by doctors that their uterus has rotten and there are chances of cancer.

Unholy nexus of pharmaceutical companies

Today in this world doctors have medicine for every problem even though you required it or not but they always have something to prescribe you. Whatever the problem you have if you visit the doctor you will come with prescription full of medicine of some branded companies now a days pharmaceutical companies have medicine for every problem, for instance there are drugs which can make you sleep others can wake you up, the situation is that you name the problem doctor have the medicine to prescribe.

There was time when drugs were invented to treat only genuine disease like typhoid, malaria and other infections but now day's drugs are available for every single problem. This will not be wrong to say that half of the population is surviving on medicine now a day. And the companies too have realized that it is really profitable to invent the disease and then make the antidote of that disease.

In a research Dr. N.C Asthan mentioned that Drugs are fastest growing part of health care and the growing rate of business is 12% per year "according to data almost 200 billion dollar [63] spends by American on the prescription drugs every year.

Reasons why doctors are prescribing you unnecessary tests are

- Increase their cash flows
- Lack of diagnosis skills
- Social pressure
- Private hospitals pressure

How the pharmaceutical companies business pulled off

The balloon growth of the pharma companies was not sudden it was proper planed and systematic, the most important part of the success story of the pharama companies was unholy relationship between doctor and pharma companies, which made this possible.

In a recent sting operation a physician was caught in Delhi for prescribing unnecessary nutritional supplements to a poor lady to meet the target of pharmaceutical companies. This is again a fairly common practice by doctors that once you visit the doctor you will surely come one or other disease "I would like to add one line "Tere clinic se koi khali hath na jaye".

Unethical relationship between doctors and drugs companies

Medical profession is the most respectable profession in the world and primary aim is to serve the humanity. Monetary gains are subordinate consideration. But From last few decades it has observed that the most pious profession has lost its dignity and it has become more of business than service.

It has observed that the relationship between doctor and pharmaceutical companies, seducing doctors to prescribe and promoting unnecessary drugs just for the sake of monetary gains.

In an article Dr. R.K. Bansal, Assistant Professor, Dr. Sanjoy Das, Associate Professor, Department of Forensic Medicine & Toxicology, Himalayan Institute of Medical Sciences, stated that the interaction between doctor and the medical representative is really very old and the practices are being carried by medical representative as old as the medical profession.

The main role of the medical representative is to introduce new medicine to doctors, and there is nothing wrong in them. Till the time the ultimate beneficiary is the patients there is nothing called wrong in this practice? For better and improved health care system it is really needed to upgrade the knowledge and skill, even the guidelines given in the Medical council of the India [64].

Unfortunately, the problem in Indian is much deeper the companies are well verse with the tactics that how to expand their business. The pharmaceutical companies maintain an army of medical representative whose only work is maintain relationship with their doctors and to entice them with new gifts and other benefits. The industry is very much aware that the good drugs are not sufficient to capture the market but there is a need of doctors who prescribe their medicine or endorse their brands. The company relies on doctor who prescribed their medicine and without the participation of the doctor; it has become herculean task for the company to stand in the market. There is whole chain of mediator getting benefits out of our pockets.

Effect of the Relationships

The drugs companies interact with the doctor to promote their medicine; in return they get their share of gifts commission etc. In this both the parties are mutually benefited from this agency and the patients is the only who suffers as a consequences.

In one study it was showed that there are many different ways how these companies lure their doctors. In many cases these have been seen that, doctors were provided sponsorship for their seminar, free abroad trips and other things too. In turn doctor reciprocates them by prescribing expensive medicine to their patients. There are number of factors which really affect doctor's prescription and this may be the reason behind such shoddy prescription.

As a result of the relationship between doctors and pharmaceutical companies, the credibility, respect and the trust of medical profession in the eyes of the patients and the public has decline.

In a research Pharmaceutical Research and Manufacturing of America (Pharma) and CAM, a global company which audits the pharma companies promotional activities have concluded that almost 57.5billion US\$ spent on the promotional activities and out of this 80% of this money is spent on the medical practitioner to promote their medicine [65].

Mushrooming of pharmaceutical companies is the reason of the unethical practices. To lower the price of the drugs they often compromise with the quality. If the government of India keep check on price and quality of the drugs there are still chances to curb the unethical practices in India. India drug bazar involves many players in it like doctor companies' dealer and MRs.

Generic Medicine

After all efforts made by Indian government still nothing has achieved and except few doctors no one is prescribing generic medicine. Even continues pressures of government bodies to the hospital to prescribe generic medicine doctors are not prescribing generic medicine though these are as effective as other branded medicine. The fact of prescribing branded medicine is constant pressure by pharmaceutical companies and indebtedness of gifts to doctors by pharmaceutical companies.

Report in the local newspaper cases have seen where doctor are prescribing generic medicine to patients and back side they are writing their brand endorsed companies medicine name. The case was of government hospital of Udaipur s/no 34919 where doctor prescribed generic medicine and other hand back side of the prescription was written with branded medicine.

Everything in Indian healthcare is increasingly getting monetized. This is an indicator of that malaise. If a patient comes to know that their doctors are prescribing medicine and treatment in the influence of big market player of pharmaceutical companies their confidence and the trust on the doctor will break. This is the high time that government should take the initiative to protect the innocent patient from these all unethical practices in medical.

Sum Up

Ethics and morals are everybody's concern. They keep changing as they constitute a compromise between liberty and

security on the one hand, and progress and development on the other. Recent time's doctors have become daily wage earner; they paid on the basis of unwanted surgeries and test the prescribed. The trend which is going on doctor of corporate hospital explained that they have a quota to meet every month. In which they further added that they see their patient as potential candidate on operating table. They have become scalpel happy doctors.

My research on the subject is based on the data collected from various sources which highlights mal practice in the medical profession. Having spoken to fraternity, reading press releases and tv broadcast the scene is pathetic. The infection has reached on a high level, medical education is expensive and therefore passport fall prey to recover the money spent on them. Every step is aimed at fast money in which pharma, pathlabs, medicine outlets have their share. This ultimately affects the consumer. Not one but all agencies are to be blamed. Though it is, but not impossible if only route cause is handled.

First of all the medical council should be effective and needs rapid transformation. Here the intervention of those in authority must feel responsible. In the council people of high integrity and touch of humanity should be brought in and monitor the guidelines laid down. Any infringement should be dealt strictly with punishment to erring the person.

Next in line are doctors who must follow code of conduct and culture of self-discipline.

Centre as well as State Government must have free hand in implementing the norms set out without any interference or power politics.

Private hospitals, clinics and nursing homes must have required infrastructure before they are issued license.

Finally NGO's social groups of a representative from area wise be involved who must be powered to take appropriate action to handle any situation.

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