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Right To Fiduciary Relationship: A Sociological Overview of Indian Medical Professionalism

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Abstract: Medical professionalism in her pool of definitions globally, has placed expectations of society and healthcare delivery. Ethics and patient-firstbeing foundation, Altruism has been the main element of medical professionalism. This omnipotent element,altruism, emerges from west. In a vulnerable and dynamic environment where values are been questioned and physicians being stressed to perform selflessly and raising question whether the real voice of the doctors and the patients have been heard and understood. Whether altruisms culturally stand relevant or should it be coexisting alongside of fiduciary relationship or by itself. This is in order to form more meaningful healthcare management based on applied ethics. This paper sociologically overviews the need for fiduciary relationship systematically.

Index Terms *-Altruism, Applied Ethics, Fiduciary Healthcare Relationship, Indian Medical Professionalism*

Introduction

Doctors have always been placed on authoritative identity and patient at mercy of limited knowledge. Rifting the existing doctor-patient relationship, today's stress to perform amidst of poor infrastructure, unqualified resources, greater number of patients and more importantly their own personal life which is often forgotten**.** While the professional itself is under scrutiny of society perhaps what is forgotten is that this is not the problem of doctors alone. Patient who had kept faith between known and unknown have also shown their other side through violence against doctor in recent past [1]. The issue has been often overlooked upon the communication insufficiency. Doctors have to handle uncertainty but accountable for hypothetico-deductive process of diagnosis, investigations. This raises question on how one can be productive and necessarily be happy with the current medical professionalismcompetency that sets upaltruism as the key criteria. While, there still remains uncertainty about what professionalism actually is, and although

medical educators primarily frame professionalism as a list of characteristics or behaviours with certain principles which always had altruism in it, many sociologists favour theories that incorporate political, economic and social dimensions into the understanding of the nature and function of professionalism [2]. Moralists will argue that professionalism should be seen clearly as an aspect of personal identity and character which develops over time. There is no overarching conceptual context of medical professionalism that is universally agreed upon. This paper systematically overviews the literature about right to choose fiduciary relationship than to have altruism which will help reshape responsibilities of both doctors and patients in the future.

Philosophical standpoint

Unarguably ethics, moral and communication are the foundation of medical professionalism and Altruism is been the crown. However, we need to realise, we stand in the times of conundrums from society and humanity which constantly throwing doubts and challenge the professional face of medicine. There is no point in pressuring social expectations over healthcare delivery rather an altruism should be coupled with stringent law, set boundaries and be practical. Friedrich Nietzsche (1844–1900) deny the existence of moral absolutes. The use of the comparative method provides a scientific means of discovering such absolutes.All societies and culturecannot finalise to impose or

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restrict same behaviours upon their members. This makes a strong argument that these aspects of the moral code are indispensable [3], [4] and is challenged. It is time to analyse our moral values and how much impact they may have on physicians and doctors. Thus, assessing the value of our values is imperative since values are relative to one's goals and one's self.Moral behaviour and the consequent morals differ among cultures, societies, and groups, both in the present and in the past. Edward Westermarck (1862-1939) refers ethical relativism as the doctrine of differences in moral standards which exist among different cultures. Its high time we realise more authentic applied ethical professionalism based of fiduciary relationships. This does not mean our society is scot free of ethics, morals and altruism which in Hobbes' theory is the state of nature, that would be without the comforts and necessities that we take for granted in modern western society [2], [5], [6]. So,it's imperative to embrace the unwritten social contract which is inherited at birth. So that it will not break laws or certain moral codes and, in exchange, we reap the benefits of our society.

Altruism to Fiduciary Relationship

One hand while we have Indians who believes healthcare is the highest order for their happiness [7], Indians out-of-pocket (OOP) on healthcare expenditures takes major part of their earnings, creating a social order and disorder. On the other hand, physicians have societal expectations and be stressed amidst of their working structures, conflict, influence, conformity, posturing, gender, sexuality and politics. When fear and anxiety is encountered of these two entities, how the current framework of medical professionalism can serve several important functions. Having said that professionalism though conflicting in itself, yet it extols attributes such as being knowledgeable and skilful; altruistic; respectful; honest; compassionate; committed to excellence and on-going professional development; and showing a responsiveness to the needs of patients and society that supersedes self-interest. It is in this context that [8] 'the words "medical professionalism" have come to encompass the identity crisis[9]· that doctors find themselves in today. Should healthcare consider living and dyingonly for patient, will that be even make sense is a question, and for a doctor to say I have been made to be who I am and my every act of my life-time is to sacrifice for someone and that doctors denounce once's personal choice and family. Professional identity formation is an evolving process that involves "a combination of experience and reflection on experience" [10]. The mere application of altruism for the sake of erstwhile qualities simply no longer becomes the only yardstick to measure professionalism. From the following discussion it is evident not anymore that this profession is considered as Altruistic, even one has to be an exception.

Ambidexterity of managing international patient and keep growing yet failed to offer complete healthcare solution to the native population.

Poverty and number of patients per doctor in India is the real context of Inequality. It is interesting to note one hand we have less doctors, infrastructure and that on the other hand we are catering to international patients. From the early 1990's there has been a reverse flow of patients unlike before from highly developed nations to less developed countries circumventing the health care services offered in their own land, where they are inaccessible, undesirable, with overburdened public health systems and long waiting periods. Patients accessing health care services beyond their borders are more than 5 million worth of US $ 40 billion with an annual growth rate of 20 percent where India among other south Asian country in the forefront. The study of Singapore, Thailand and India reflecting the best practices and skilled manpower allocation in these countries in terms of stakeholders' perspective associated with international health tourism [11]. However, three forth of the population in India, live below or at subsistence levels [12]. This means 70- 90 per cent of their income goes towards food and related consumptions. In such context social security support for health, education, housing etc become critical. India has one of the largest private health sectors in the world with over 80 percent of ambulatory care being support through out of pocket expenses. The public health services are being are very inadequate. OOP payment is the principal source of healthcare finance in many developing countries. In India, around 71 per cent of the health spending

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is met out of individual pocket. High health payment has several negative implications as it pushes households into poverty or even impoverishing their living standard which leads to direct welfare loss in households well-being as they pay for healthcare at the expenses of meeting their other basic consumption needs [13]. More so, the health services, particularly to poor, many a time remain inaccessible simply because they cannot afford to pay at the time of seeking healthcare and if those do use services suffer financial hardship or even impoverishment as many of them sale asset and/or borrow money, because they have to pay [14]. This situation leads to inequitable access to healthcare and limits the overall health outcomes to be better of a country.

Stress as social disorder for both practitioner and patients

Patients stress and frustration often triggered byexpected healthcare delivery failure.But one cannot reject the fact of raising medical care cost. It is that cost that emotes high expectations when they don't get satisfaction for the price they pay for treatment. While one cannot held doctors alone responsible and also should not forget the doctors may have to handle the high inflow of patient with less number of nurses too.And several other external and administrative factor. Current doctor patient ratio is 1:10189 people in the government hospital (the World Health Organization (WHO) recommends a ratio of 1:1,000), or a deficit of 600,000 doctors, and the nurse: patient ratio is 1:483, implying a shortage of two million nurses [15]. This implies the limited average time spent between patients and physicians. This is a challenge for physician to demonstrate professionalism competency that satisfies patient and societal expectations in average of two minutes in primary care [16]. While it is imperative to note that Indian believes health is the highest priority in their lives to determine happiness in a survey Conducted by Ipsos[17].

Emotions are within the intrinsic texture of social order and disorder, working structures, conflict, influence, conformity, posturing, gender, sexuality and politics. Fear and anxiety have been underworked; obscured, perhaps, by the positive thinking and feeling expected for man's work transactions. Medical professionalism so far had made to meet the society's expectations of medicine (healer) and the Medicine's expectations of society (self -regulation). There are no specific studies which figures causes of stress and depression exclusively for doctors at large. However, the estimates now suggest that by 2025, 38.1 million of HLY (healthy life years i.e., disability free life expectancy or DALY Disability Adjusted life year) will be lost to mental illness which is 23 per cent increase until 2016 from 2013 in India, adding up to the woes the depression rate is 36% percent in Indian Population [18] which is almost equivalent to Healthy life years lost due total non-communicable and communicable disease deaths in Sub Saharan Africa which had life expectancy of about 40 Years, whose economic stagnation and income inequality on the continent have grown faster and thus rich citizens within each country have benefited more than poor citizens.

Blaming current healthcare generation is not new and not pragmatic, from professionalism framework standpoint

Bygone are those eras where discipline of attending the demonstrations on Morbit Anatomy was judged as character of medical students [19].We cannot send doctors to take alternative careers today. The problem of professionalism is not new but its different today from what it was in the beginning. Dating back to 1814 were absenteeism to the medical college, which is a free will, were termed to be unprofessional. Professionalism made highly important accordingly to the evidences from USA [20] but fails to explain the dynamics of professionalism as the definition itself lacks clarity across the globe. Further some of the definitions were suggestedover the curriculum and that it must set out the necessary knowledge, skills and behaviours students must have by the time they graduate. Student's knowledge skills and professional behaviour must be assessed. Today's generation has grown up culturally sceptical and technologically savvy and values free time and life balance. They come predominantly from higher-income families, and will incur record-setting amounts of educational debt. Led by women, this generation of students will work fewer hours and demand flexible

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employment opportunities [21]. Today's students are potentially as competent and professional as the physicians that have come before. Today's students are smart and energetic [22], [23]. This generation of students constantly been criticized for choosing specialities over primary care which provide certain lifestyle factors. As a result, this generation appears to members of other generations as placing personal priorities above those of the patient.

Placing God First would not bequeath only positive values, from cultural standpoint

India being pluralistic and multi-cultural society many religious traditions, both indigenous and foreign, have been established over the years. Many religious gurus, law-givers, social reformers and statesmen have come to guide and influence the life and culture of Indians. The Mahabharata, the Ramayana, the Bhagvat Gita as well as the Quran, the Bible, the Guru Bani, etc., have direct effect in the thinking pattern and consciousness of Indians. So also the Hindu caste system and the joint family pattern have a decisive influence on the followers of other religions. We see Rituals and Customs, Symbols and Sign, Tradition and language are part of Cultural dimension. Where Individual and Family, Religion & Spirituality, Happiness & Adaptability, society through conformity, Success & Growth were considered as Value Dimension. This gives a light of how the behaviours and expectations of the patients as consumers where they pay for their services (Out of pocket OOP) especially in the private hospitals could be understood to an extent.India's cultural canvas with painted values of Indian culture are contradictory to, and violative of, many articles in the UDHR (universal declaration of human rights). Buddha himself rejected the unequal caste structure, that the theory emphasized the quasi-contractual nature of the beginnings of government and on the sovereignty of the people. Such a republican background naturally contained an individualistic tradition within it with a strong support for the kind of social and moral attitudes implicit in human rights. Buddhist tradition regarding education was in striking contrast with that of the Hindu tradition. The Buddhist monasteries were open to persons of any caste. There are few more to quote which talked about tolerance and equality such as bhakti movement or sufi tradition, Baul Movement Of Free Bird Of Equality And Freedom, Sikhism, Islam and Christianity. Status of Dalits as Children of God, condemned that the most unfortunate tradition of Indian culture that due to the predominance of the Hindu caste system, the Dalits (who are officially known as the Scheduled Castes). The caste structure, as has already been said, consisted of four castes and the Dalits were not part of it. From the very birth, they were being assigned to all sorts of menial jobs starting from scavenging to working as labourers in the lands of the dominant landlords [23]. This practice of confining the Dalits to a particular profession, place of settlement and a degraded social status amounted to a violation of human rights. At the same time, their exploitation by the dominant land owning castes had the approval and sanction of the socio-cultural context in which they operated [24]. · Secondly, there was no awareness among the Dalits about their rights as human beings, on par with the other sections of society. During the freedom struggle, the Dalits came to realize their dignity, wealth and importance though not necessarily their rights. Gandhi sought to increase their social status by identifying himself with them and addressing them as the children of God or Harijans. B.R. Ambedkar, a Dalit by birth and the main architect of the Indian Constitution, took up the cause of the Dalits during the freedom struggle itself and that today constitutional provisions which guarantee a Dalit all the rights to be done at the grassroots level where the Dalits still face discrimination, atrocities and harassment in various forms.

Medical Work Place& Ethical Deviants

Patients today approach the doctor with mixed feelings of faith and fear. Undermining all the values of medical profession corruption is arguably the most serious ethical crisis in medicine today. India is said to have one of the most corrupt medical systems in the world [25]. This leads to a distorted doctor-patient relationship, with high chances of exploitation both ways – doctors may fleece patients and, if some lacunae are exposed in treatment, patients or their relatives may blackmail doctors [26].Such unethical practices may no longer be cause for comment. But there are many reports of

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doctors actually committing crimes distorting medical reports in medico-legal cases, providing false certificates to protect criminals, sexually assaulting their patients, and even trading in human organs [27]. It goes without saying that such criminal doctors are in a minority. Unfortunately, their number seems to be increasing It goes without saying that such criminal doctors are in a minority. Unfortunately, their number seems to be increasingg [28].

India has varied from patient care to bioethics deviations and corruptions. We have seen the deviant in public health sectors to private sectors. The an incident in west Bengal a laparoscopic surgeon kept the instrument out of order intentionally and referred the patients to his affiliate nursing home. National Rural Health Mission, Uttar Pradesh didn't even had crucial medical supplies and had been out of stock for months. Fuel money for the generator ran out to keep vaccines cold. The State Health Mission was responsible for an unaccounted loss of Rs 5754 crore out of the total amount of Rs 8657 crore [29]. Which as an organized looting of government funds [30]?

Corruption in the healthcare system has been revealed as one of the factors responsible for the failure to fulfil objectives of healthcare. Corruption fosters ill health and prolongs suffering and at the same time, corruption destroys the moral vision of medicine [32].

Health Records (e-HR) and Data Protection Laws from legal standpoint

India though have comprehensive electronic health record facility under government schemes, has failed due to repletion of data collection for various purposes, limited time, under qualified staff, lack of resources, less technical know-how or simply the will. This has led to many medical negligence which doctor alone cannot be blamed. Patient details when become untraceable then the medical treatment becomes delayed, while redoing the tests all over again. Ignorance, poverty, literacy and other socio-psychological factors of the patients paves way for these circumstances coped with no serious (e-HR) framework. While to be noted such data even while been stored has no framework for security measures, paving way for data leakages.

The current data protection regulation in the world is the European Union's General Data Protection Regulation (EU GDPR) which came into effect on May 25, 2018, has some of the salient rights provided. Such as, 1. The right to have personal data minimized. 2. The right to have knowledge as to where the data is being stored. 3. The right to have access to the data, to correct it. 4. The right to be forgotten wherein the data subject has the right to ask the company to delete their personal data permanently.

The "Personal Data Protection Bill, 2018" is on lines with the EU GDPR regulation and have far reaching consequences for the law enforcement agencies, while the benefitsoutweigh the challenges. India's data protection regime is primarily governed by the Information Technology Act, 2000, and the Information Technology (Reasonable Security Practices and Sensitive Personal Data or Information) Rules, 2011. However, these laws miserably fail to protect the interest of the individuals in today's time. Thus, there is an important need for a comprehensive data protection framework. India is finally moving ahead towards having a comprehensive Data Protection Law which is the need of the hour to truly ensure a person's privacy in today's digital age. However how well this will be implemented is a question, that it should not become another e-HR

Conclusion

Current understanding of medical professionalism has vast amount of definitions that briefs it as a calling and should not lose the essence of the very basic abstract elements in the definition. Whereas some calls retrospective damages to the culture if moves from being altruistic. There is no simple definition which is reflective for all the stake holders. Either one or the other superimpose their

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interest on them to others.There has been much of studies from practitioner perspective and patient perspective collaborative to form unchanging professional [32] characters that forms the elements in the definition of professionalism. While many of them has not given any particular directives leaving spaces to relook. The time has changed where the innate elements such as even altruism have travelled cultures, political, geographical, generational boundaries [34]. Currently we need to protect our professionals equally that we need to propose more minimalistic ideology [35] considering technology driven, quick service not only ethical but also legal, that should contains scope for the rights of fiduciary relationship between practitioners and patients.

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